

ARKANSAS CODE OF 1987 ANNOTATED



2011 SUPPLEMENT VOLUME 21

Place in pocket of bound volume

Prepared by the Editorial Staff of the Publisher

Under the Direction and Supervision of the
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Supplement pamphlet for Volume 1*

5051219

ISBN 978-0-327-10031-7 (Code set)
ISBN 978-0-8205-8507-9 (Volume 21)



Matthew Bender & Company, Inc.
701 East Water Street, Charlottesville, VA 22902
www.lexisnexis.com

TITLE 21

PUBLIC OFFICERS AND EMPLOYEES

CHAPTER.

1. GENERAL PROVISIONS.
2. COMMISSION, OATH, AND BOND.
3. RECRUITING, HIRING, AND APPOINTMENT.
4. ATTENDANCE AND LEAVE.
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12. TERMINATION OF SERVICE.
13. STATE AND LOCAL GOVERNMENT VOLUNTEERS ACT.
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Publisher's Notes. The acts amending nary Session are codified in the newest this title from the 2003 First Extraordi- bound volume 21.

CHAPTER 1

GENERAL PROVISIONS

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. ELIGIBILITY FOR OFFICE.
4. CONSTITUTIONAL OFFICERS AND THEIR SPOUSES.
5. PUBLIC EMPLOYEES' POLITICAL FREEDOM ACT OF 1999.
6. ARKANSAS WHISTLE-BLOWER ACT.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

21-1-102. Term of office of certain officers.

21-1-102. Term of office of certain officers.

(a)(1) The terms of office of the Justices of the Supreme Court, all district officers, except state senators, all county officers, except members of the lower house of the General Assembly, and all township officers and road overseers, when road overseers are elected, shall begin on January 1 following their election.

(2) The term of office of the Commissioner of State Lands shall begin on the same date as provided in Arkansas Constitution, Article 6, § 3, for other constitutional officers.

(3) However, in the case of a special election to fill an unexpired term, or to fill an office created after the last preceding general election, the term of the officer so elected shall begin as soon after the election as the

result can be ascertained and the person elected can be commissioned and qualified.

(b) All officers shall hold their respective offices for the term prescribed by the law and until their successors are elected and qualified.

History. Acts 1917, No. 154, § 1, p. 809; C. & M. Dig., §§ 8071, 8072; Pope's Dig., §§ 10400, 10401; A.S.A. 1947, § 12-112; Acts 2009, No. 646, § 1.

Amendments. The 2009 amendment

deleted "Commissioner of State Lands" following "office of the" in (a)(1); inserted (a)(2) and redesignated the subsequent subdivision accordingly; and made a related change.

SUBCHAPTER 2 — ELIGIBILITY FOR OFFICE

SECTION.

21-1-207. Public employees.

21-1-207. Public employees.

No employee of the state, a county, a municipality, a school district, or any other political subdivision of this state shall be deprived of his or her right to run as a candidate for an elective office or to express his or her opinion as a citizen on political subjects, unless as necessary to meet the requirements of federal law as pertains to employees.

History. Acts 1997, No. 1214, § 1.

Publisher's Notes. This section is be-

ing set out to reflect a change to correct the section heading.

SUBCHAPTER 4 — CONSTITUTIONAL OFFICERS AND THEIR SPOUSES

SECTION.

21-1-402. Restrictions on other employment.

SECTION.

21-1-405. Violations.

21-1-402. Restrictions on other employment.

(a)(1) Subject to any restriction or condition prescribed by the Arkansas Constitution and except as provided under subdivision (a)(2) of this section, and unless the person resigns prior to entering into the employment, no person elected to a constitutional office, after being elected to the constitutional office and during the term for which elected, may enter into employment with:

(A) Any state agency;

(B) Any public school district of this state in a noncertified position;

(C) Any vocational education school funded by the state; or

(D) Any education service cooperative.

(2)(A) A constitutional officer who was employed by a state agency, a public school district of this state in a licensed or nonlicensed position, a state-supported vocational education school, an education service cooperative, or a state-supported college or university and who receives the prior approval of the Joint Budget Committee

during a legislative session or the Legislative Council between legislative sessions, and the Governor, may:

(i) Transfer employment to or become reemployed by another state agency, public school district of this state, state-supported vocational education school, an educational service cooperative, or a state-supported college or university;

(ii) Change positions under his or her current employer; or

(iii) Upon retirement from a state agency, public school district of this state, state-supported vocational education school, an education service cooperative, or a state-supported college or university, enter into part-time or temporary employment with a state agency, public school district of this state, state-supported vocational education school, an educational service cooperative, or a state-supported college or university.

(B) Employment under this subdivision (a)(2) shall not be approved if the employment will violate §§ 19-11-701 — 19-11-709.

(3) Subject to any restriction or condition prescribed by the Arkansas Constitution, any constitutional officer who was employed by a state agency prior to being elected a constitutional officer may continue the employment, but the employment shall not thereafter be reclassified unless it is the result of a general reclassification affecting all positions of the class and grade equally, nor shall the constitutional officer receive any pay increase for that employment other than the cost-of-living increases authorized by the General Assembly without the prior approval of the Joint Budget Committee during a legislative session, the Legislative Council between legislative sessions, and the Governor.

(b) No person whose spouse is elected to a constitutional office may, after the spouse is elected to the constitutional office and during the term for which the spouse is elected, enter into employment with any state agency without the prior approval of the Joint Budget Committee during a legislative session, the Legislative Council between legislative sessions, and the Governor.

(c) This subchapter does not prohibit the spouse of any constitutional officer from being elected and serving in an elected office or from being appointed to fill the vacancy in any elected office.

(d) Any person who was employed by a state agency prior to the person's spouse being elected a constitutional officer and any person who entered into employment with a state agency during the spouse's service as a constitutional officer is subject to the following:

(1) The person's position shall not thereafter be reclassified unless it is the result of a general reclassification affecting all positions of the class and grade equally nor shall the person, while the spouse serves as a constitutional officer or within two (2) years after the spouse leaves office, be promoted or transferred without the prior approval of the Joint Budget Committee during a legislative session, the Legislative Council between legislative sessions, and the Governor; and

(2) The person shall not receive any pay increase in excess of fifteen percent (15%) without the prior approval of the Joint Budget Commit-

tee during a legislative session, the Legislative Council between legislative sessions, and the Governor.

(e) A former member of the General Assembly and his or her spouse shall not be eligible to be employed by any state agency within twenty-four (24) months after the member leaves office in any job or position that:

(1) Was newly created by legislative action within the twenty-four (24) months prior to the member's leaving office; or

(2) Had a maximum salary level increase of more than fifteen percent (15%) authorized by legislative action within the twenty-four (24) months prior to the member's leaving office.

(f)(1) A former member of the General Assembly shall not be eligible to be registered as a lobbyist under § 21-8-601 et seq. until one (1) year after the expiration of the term of office for which he or she was elected.

(2) Subdivision (f)(1) of this section applies to all persons elected to the General Assembly on or after July 27, 2011.

History. Acts 1999, No. 34, § 2; 2003, No. 1453, § 1; 2005, No. 1962, § 91; 2009, No. 1398, § 1; 2011, No. 48, § 2; 2011, No. 71, § 2.

A.C.R.C. Notes. Acts 2009, No. 1398, § 2, provided: "The provisions of the Arkansas Code added by this act are non-severable. In the event any part of the provisions of the Arkansas Code added by this act, including but not limited to the provisions requiring prior approval of the Joint Budget Committee or Legislative Counsel and the Governor, are found to be unconstitutional by a court of competent

jurisdiction, the amendments to Arkansas Code § 21-1-402 contained in this act shall be null and void and Arkansas Code § 21-1-402 before amendment by this act shall remain in full force and effect."

Amendments. The 2009 amendment inserted "and except as provided under subdivision (a)(2) of this section" in (a)(1); inserted (a)(2) and redesignated former (a)(2) as (a)(3).

The 2011 amendment by identical acts Nos. 48 and 71 added (f)(2); and inserted "one (1) year after" in (f)(1).

21-1-405. Violations.

(a) Any knowing violation of this subchapter is a Class D felony.

(b) The violation of any rule, regulation, or policy promulgated by the Department of Finance and Administration under this subchapter or the failure of a constitutional officer or spouse of a constitutional officer to disclose his or her interest in any contract, grant, or lease agreement or in any subcontract, subgrant, or assignment of lease as required by this subchapter or as required by any rule, regulation, or policy of the department shall be grounds for voiding the contract, grant, lease agreement, subcontract, subgrant, or lease assignment, and the constitutional officer or spouse may be required to refund any moneys received thereunder.

History. Acts 1999, No. 34, § 5; Acts 2007, No. 827, § 172.

Amendments. The 2007 amendment

substituted "knowing" for "willful and knowing" in (a), and made a stylistic change.

SUBCHAPTER 5 — PUBLIC EMPLOYEES' POLITICAL FREEDOM ACT OF 1999

SECTION.

21-1-502. Definitions.

21-1-503. Employer not to penalize employee's political activity.

21-1-502. Definitions.

As used in this subchapter:

(1) "Elected public official" means the Governor, Lieutenant Governor, Secretary of State, Treasurer of State, Auditor of State, Attorney General, Commissioner of State Lands, a member of the Senate, and a member of the House of Representatives;

(2) "Public employee" means any person providing services for the State of Arkansas, a county, a municipal corporation, or any other political subdivision of this state for which compensation is paid; and

(3) "Public employer" means the State of Arkansas and each political subdivision of the State of Arkansas, as defined in § 21-5-603.

History. Acts 1999, No. 658, § 2; 2005, No. 1962, § 92.

21-1-503. Employer not to penalize employee's political activity.

(a) A public employee shall not be prohibited from communicating with an elected public official concerning a matter related to the public employee's job, except for a matter exempted under § 25-19-105.

(b) A public employee shall not be prohibited from exercising a right or privilege under the Freedom of Information Act of 1967, § 25-19-101 et seq.

(c)(1) It shall be unlawful for any public employer to discipline, to threaten to discipline, to reprimand either orally or in writing, to place any notation in a public employee's personnel file disciplining or reprimanding the public employee, or to otherwise discriminate against a public employee because the public employee exercised the right to communicate with an elected public official as granted under this subchapter.

(2) A public employer shall not be prohibited from disciplining a public employee who has intentionally made an untrue allegation to an elected public official concerning a matter related to the public employee's job.

(d) Any person willfully violating a provision of this subchapter shall be guilty of a Class A misdemeanor.

History. Acts 1999, No. 658, § 3; 2005, No. 1962, § 93; 2009, No. 771, § 1.

Amendments. The 2009 amendment

inserted (b) and redesignated the subsequent subsections accordingly.

SUBCHAPTER 6 — ARKANSAS WHISTLE-BLOWER ACT

SECTION.

21-1-602. Definitions.

21-1-609. [Repealed.]

Effective Dates. Acts 2005, No. 2190, § 24: Apr. 13, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the services of the county boards of education are no longer needed by the school districts; that there will be no funding available for the operation of the county boards of education; and that this act is immediately necessary because county boards of education need sufficient authority to transfer functions, duties, and records prior the end of the fiscal year.

Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

21-1-601. Title.

RESEARCH REFERENCES

ALR. What Constitutes Activity of Private-Sector Employee Protected under State Whistleblower Protection Statute Covering Employee's "Report," "Disclosure," "Notification," or the Like of Wrongdoing — Nature of Activity Reported. 36 A.L.R.6th 203.

What Constitutes Activity of Public or State Employee Protected under State

Whistleblower Protection Statute Covering Employee's "Report," "Disclosure," "Notification," or the Like of Wrongdoing — Nature of Activity Reported. 37 A.L.R.6th 137.

Construction and Application of Whistleblower Provision of Sarbanes-Oxley Act, 18 USCS § 1514A(a)(1). 15 A.L.R. Fed. 2d 315.

CASE NOTES

Cited: Crawford County v. Jones, 365 Ark. 585, 232 S.W.3d 433 (2006); City of Farmington v. Smith, 366 Ark. 473, 237

S.W.3d 1 (2006); Ark. HHS v. Storey, 372 Ark. 23, 269 S.W.3d 803 (2007).

21-1-602. Definitions.

As used in this subchapter:

(1) "Adverse action" means to discharge, threaten, or otherwise discriminate or retaliate against a public employee in any manner that affects the employee's employment, including compensation, job location, rights, immunities, promotions, or privileges;

(2)(A) "Appropriate authority" means:

(i) A state, county, or municipal government department, agency, or organization having jurisdiction over criminal law enforcement, regulatory violations, professional conduct or ethics, or waste; or

(ii) A member, officer, agent, investigator, auditor, representative or supervisory employee of the body, agency, or organization.

(B) "Appropriate authority" includes, but is not limited to, the office of the Attorney General, the office of the Auditor of State, the Arkansas Ethics Commission, the Legislative Joint Auditing Committee and the Division of Legislative Audit, and the offices of the various prosecuting attorneys having the power and duty to investigate criminal law enforcement, regulatory violations, professional conduct or ethics, or waste;

(3) "Communicate" means to give a verbal or written report to an appropriate authority;

(4) "Public employee" means a person who performs a full or part-time service for wages, salary, or other remuneration for a public employer;

(5) "Public employer" means any of the following:

(A) An agency, department, board, commission, division, office, bureau, council, authority, or other instrumentality of the State of Arkansas, including the offices of the various Arkansas elected constitutional officers and the General Assembly and its agencies, bureaus, and divisions;

(B) A state-supported college, university, technical college, community college, or other institution of higher education or department, division, or agency of a state institution of higher education;

(C) The Supreme Court, the Court of Appeals, the Administrative Office of the Courts, the circuit courts, and prosecuting attorneys' offices;

(D) An office, department, commission, council, agency, board, bureau, committee, corporation, or other instrumentality of a county government or a municipality or a district court, a county subordinate service district, a municipally owned utility, or a regional or joint governing body of one (1) or more counties or municipalities; or

(E) A public school district, school, or an office or department of a public school district in Arkansas;

(6) "Violation" means an infraction or a breach which is not of a merely technical or minimal nature of a state statute or regulation, of a political subdivision ordinance or regulation, or of a code of conduct or code of ethics designed to protect the interest of the public or a public employer;

(7) "Waste" means a public employer's conduct or omissions which result in substantial abuse, misuse, destruction, or loss of public funds, property, or manpower belonging to or derived from state or local political subdivision's resources; and

(8) "Whistle-blower" means a person who witnesses or has evidence of a waste or violation while employed with a public employer and who communicates in good faith or testifies to the waste or violation,

verbally or in writing, to one of the employee's superiors, to an agent of the public employer, or to an appropriate authority, provided that the communication is made prior to any adverse action by the employer.

History. Acts 1999, No. 1523, § 2; 2005, No. 2190, § 21.

CASE NOTES

ANALYSIS

Affirmative Defense.
Jury Trial.
Reporting.

Affirmative Defense.

Because the circuit court previously ruled that the employee violated multiple rules and policies, it was clear that his termination was the result of that misconduct and not related to any communication between the employee and the city administrator; that previous ruling did, in fact, establish the city's affirmative defense to the whistle-blower claim. *Barrows v. City of Fort Smith*, 2010 Ark. 73, — S.W.3d — (2010).

Jury Trial.

There were no undisputed facts that warranted proceeding to a jury trial; the circuit court determined as a matter of law that the city had an affirmative de-

fense to the employee's whistle-blower claim in that his termination was the result of his violating departmental rules and policies. As the circuit court reasoned, the employee should not be allowed to force the city to prove that misconduct yet again. *Barrows v. City of Fort Smith*, 2010 Ark. 73, — S.W.3d — (2010).

Reporting.

Because terminated county employee's actions of reporting alleged misdeeds to quorum court members, sitting as a grievance committee, was reporting to the "appropriate authorities," under subdivision (2)(A)(ii) of this section, evidence supporting terminated employee's claim under the Whistle-Blower Act created a question of fact and, thus, it was error for the trial court to have granted the county's motion for a directed verdict. *Crawford County v. Jones*, 365 Ark. 585, 232 S.W.3d 433 (2006).

21-1-603. Public employer conduct prohibited — Good faith communication.

RESEARCH REFERENCES

ALR. What constitutes activity of employee protected under state whistle-blower protection statute covering employee's "report," "disclosure," "notification," or the like of wrongdoing—Sufficiency of report. 10 A.L.R.6th 531.

What constitutes activity of employee, other than "reporting" wrongdoing, protected under state whistleblower protection statute. 13 A.L.R.6th 499.

What Constitutes Activity of Private-Sector Employee Protected under State Whistleblower Protection Statute Covering Employee's "Report," "Disclosure,"

"Notification," or the Like of Wrongdoing — Nature of Activity Reported. 36 A.L.R.6th 203.

What Constitutes Activity of Public or State Employee Protected under State Whistleblower Protection Statute Covering Employee's "Report," "Disclosure," "Notification," or the Like of Wrongdoing — Nature of Activity Reported. 37 A.L.R.6th 137.

Ark. L. Notes. Norwood, The At-Will Doctrine Twenty Years After Gladden and Sterling Drug, 2008 Ark. L. Notes 55.

CASE NOTES

Affirmative Defense.

Because the circuit court previously ruled that the employee violated multiple rules and policies, it was clear that his termination was the result of that misconduct and not related to any communica-

tion between the employee and the city administrator; that previous ruling did, in fact, establish the city's affirmative defense to the whistle-blower claim. *Barrows v. City of Fort Smith*, 2010 Ark. 73, — S.W.3d — (2010).

21-1-604. Civil liability.

CASE NOTES

Evidence.

Because terminated county employee's actions of reporting alleged misdeeds to quorum court members, sitting as a grievance committee, was reporting to the "appropriate authorities," under § 21-1-602(2)(A)(ii), evidence supporting terminated employee's claim under the

Whistle-Blower Act created a question of fact and, thus, it was error for the trial court to have granted the county's motion for a directed verdict. *Crawford County v. Jones*, 365 Ark. 585, 232 S.W.3d 433 (2006).

Cited: *Barrows v. City of Fort Smith*, 2010 Ark. 73, — S.W.3d — (2010).

21-1-605. Remedies.

CASE NOTES

Applicability.

Employee who prevailed on appeal of a postjudgment order related to judgments entered pursuant to the Whistle-Blower Act, subdivision (5) of this section, was denied attorneys' fees under the act because the judgment on appeal was not

rendered under this act, but rather was decided based primarily on federal and state income tax law. *Ark. HHS v. Storey*, 372 Ark. 175, 271 S.W.3d 500 (2008).

Cited: *Crawford County v. Jones*, 365 Ark. 585, 232 S.W.3d 433 (2006).

21-1-609. [Repealed.]

Publisher's Notes. This section, concerning severability of subchapter, was repealed by Acts 2005, No. 1962, § 94.

The section was derived from Acts 1999, No. 1523, § 9.

CHAPTER 2

COMMISSION, OATH, AND BOND

SUBCHAPTER.

1. GENERAL PROVISIONS.
7. SELF-INSURED FIDELITY BOND PROGRAM.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 21-2-103. Sending commission fees directly to Treasurer of State — Issuance of commission.
- 21-2-105. Administration of oaths generally.

SECTION.

- 21-2-115. Persons in armed forces — Oath — Bond.

21-2-103. Sending commission fees directly to Treasurer of State — Issuance of commission.

(a) Any officer entitled to a commission may send the fee for the commission to the Treasurer of State, who shall at once execute duplicate receipts for the fee.

(b)(1) The Treasurer of State shall present the receipts to the Auditor of State, who shall countersign them and charge the amount therein specified to the Treasurer of State.

(2) The Treasurer of State shall then file one (1) of the receipts with the Auditor of State and the other with the Secretary of State, and the Secretary of State shall immediately forward the commission to the officer.

History. Acts 1883, No. 50, § 3, p. 73; C. & M. Dig., § 1429; Pope's Dig., § 1676; A.S.A. 1947, § 12-205.

Publisher's Notes. This section is being set out to correct a misspelling in (b)(1).

21-2-105. Administration of oaths generally.

(a)(1) The Governor shall take the oath of office before:

(A) A justice or judge of the:

(i) Supreme Court;

(ii) Court of Appeals; or

(iii) Circuit court;

(B) The county clerk; or

(C) The clerk of the circuit court.

(2) The justices of the Supreme Court, judges of the Court of Appeals, judges of the circuit courts, judges of the district court, Secretary of State, Treasurer of State, and Auditor of State shall take their oaths before:

(A) The Governor;

(B) A justice or judge of the:

(i) Supreme Court;

(ii) Court of Appeals; or

(iii) Circuit court;

(C) The clerk of the county court; or

(D) The clerk of the circuit court.

(3) All other officers, both civil and military, shall take their oaths before:

(A) The Secretary of State or his or her official designee;

(B) A justice or judge of the:

(i) Supreme Court;

(ii) Court of Appeals;

(iii) Circuit court;

(iv) District court; or

(v) County court;

- (C) The clerk of the county court;
- (D) The clerk of the circuit court; or
- (E) A justice of the peace.

(b) However, if the officer is serving in or with the armed forces of the United States, he or she may take the oath of office before any commissioned officer in active service of the armed forces of the United States with the rank of second lieutenant or higher in the Army, Air Force, or Marine Corps, or ensign or higher in the Navy or Coast Guard.

(c) The oath shall not be rendered invalid by failure to recite a venue or to state the place of execution of the oath, nor is a special form of jurat of affidavit or any authentication thereof required, provided it appears on the instrument that the person taking the oath is a commissioned officer provided for in this section.

(d)(1) If necessary, a county or district official listed under subsection (a) of this section may act as a holdover officer and administer the oath of office to any incoming county or district official, including without limitation his or her successor.

(2) Upon the completion of the oath:

(A) The outgoing officer immediately vacates his or her position; and

(B) The incoming officer assumes all the rights, privileges, and duties of his or her respective office.

History. Rev. Stat., ch. 106, § 1; Acts 1845, § 1, p. 61; C. & M. Dig., § 8074; Pope's Dig., § 10403; Acts 1945, No. 3, § 1; 1977, No. 531, § 1; A.S.A. 1947, § 12-207; Acts 1999, No. 641, § 1; 2009, No. 633, § 19; 2011, No. 582, § 1; 2011, No. 612, § 1.

Amendments. The 2009 amendment

inserted "judges of the Court of Appeals" and "judges of the district courts" in (a)(2), and made related changes.

The 2011 amendment by No. 582 rewrote (a).

The 2011 amendment by No. 612 added (d).

21-2-115. Persons in armed forces — Oath — Bond.

(a)(1) Any person in the United States armed forces who has been granted leave of absence under §§ 21-4-301 — 21-4-304 and 21-4-306 — 21-4-313 may take and subscribe the official oath of office required by the Arkansas Constitution and statutes of this state at any time after his or her election and before he or she enters upon the duties of his or her office.

(2) The oath may be administered by any officer of this state or of any other state or of the United States or of any foreign country who may administer oaths.

(b) The person taking and subscribing the official oath of office under the terms of this section must cause the oath of office, together with the attestation of the oath or office, to be filed with the Secretary of State before entering upon the duties of his or her office.

(c)(1) Any person enumerated in subsection (a) of this section who is required by law to enter into a bond for the faithful performance of the

duties of the office may execute and file the bond at any time within thirty (30) days after he or she shall have taken the official oath of office.

(2) If the bond is not executed and filed within that time, the office shall be deemed and considered vacant.

History. Acts 1945, No. 5, §§ 1-3; A.S.A. 1947, §§ 12-209 — 12-211; Acts 2005, No. 1962, § 95.

SUBCHAPTER 7 — SELF-INSURED FIDELITY BOND PROGRAM

SECTION.

21-2-704. Establishment — Scope of coverage.

21-2-705. Governmental Bonding Board.

SECTION.

21-2-709. Determination of coverage — Assignment of rights.

21-2-711. Fidelity Bond Trust Fund.

Effective Dates. Acts 2005, No. 506, § 54: Mar. 2, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the laws of this state as to insurance regulation and the Governmental Bonding Board, among others, are inadequate for the protection of the public, and the immediate passage of this act is necessary in order to provide for the adequate protection of the public. Therefore, an

emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

21-2-704. Establishment — Scope of coverage.

(a) There is established a Self-Insured Fidelity Bond Program for state officials and employees, county officials and employees, municipal officials and employees, and school district officials and employees, to be administered by the Governmental Bonding Board.

(b)(1) The fidelity bond coverage provided by the program shall cover actual losses sustained by a participating governmental entity through any fraudulent or dishonest act or acts committed by any official or employee of the participating governmental entity acting alone or in collusion with another, during the bond period to an amount not exceeding the lesser of three hundred thousand dollars (\$300,000) or the amount of the bond.

(2) Coverage for loss of property other than money and securities shall be limited to the actual cash value of the property on the day the loss was discovered.

(3) No coverage shall be provided for any claim in which a participating governmental entity through fraudulent means takes money or other property from another participating governmental entity.

(c) This coverage shall not include compensatory, punitive, or exemplary damages, and no interest or penalty amounts shall accrue on a bond claim made pursuant to this subchapter including, but not limited to, investigative expenses, legal fees, or court costs.

(d) The fidelity bond coverage provided by the program shall not cover a loss sustained by a participating governmental entity as a result of:

(1) Liability imposed upon or assumed by the participating governmental entity to exonerate or indemnify an official or employee from or against liability incurred by the official or employee in the performance of duties;

(2) Damages for which the participating governmental entity is legally liable as a result of:

(A) The deprivation or violation of a civil right of any person by an official or employee; or

(B) The tortious conduct of an official or employee, except conversion of property of another party held by the participating governmental entity in any capacity; or

(3) Loss of property other than money and securities unless the participating governmental entity or the Division of Legislative Audit shall be able to designate the specific official or employee causing such loss.

(e) Fidelity bond coverage shall not cover a loss sustained by any party other than a participating governmental entity.

(f) Except as provided in subdivision (d)(3) of this section, in case of a loss alleged to have been caused to a participating governmental entity through any fraudulent or dishonest act or acts by an official or employee covered under the fidelity bond coverage afforded under the provisions of this subchapter, when the participating governmental entity or the division shall be unable to designate the specific official or employee causing the loss, the participating governmental entity shall nevertheless have the benefit of fidelity bond coverage.

(g)(1) For valid coverage under the program, each participating governmental entity, including each segment or component of the participating governmental entity for which coverage is available under the program, shall procure an audit of its books and records for each fiscal year.

(2)(A) If a participating governmental entity, or covered segment or component of the participating governmental entity, is not audited by the division, the participating governmental entity, or covered segment or component of the participating governmental entity, shall procure an audit of its books and records by accountants in good standing with the Arkansas State Board of Public Accountancy in accordance with government auditing standards issued by the Comptroller General of the United States.

(B) The audit must be completed within eighteen (18) months of the close of each participating governmental entity's fiscal year.

(3) All audit reports revealing or disclosing unauthorized expenditures, asset shortages, or unaccounted-for funds shall be forwarded

immediately upon completion to the division, the State Risk Manager, and the appropriate prosecuting attorney.

History. Acts 1987, No. 728, §§ 3-5; 1993, No. 319, § 2; 1995, No. 339, § 1; 2001, No. 1383, § 1; 2005, No. 506, § 2; 2007, No. 425, § 1.
Amendments. The 2007 amendment substituted “eighteen (18) months” for “twenty-four (24) months” in (g)(2)(B).

21-2-705. Governmental Bonding Board.

(a) There is created the Governmental Bonding Board, which shall be composed of the following five (5) members:

- (1) The President of the Association of Arkansas Counties;
 - (2) The President of the Arkansas Municipal League;
 - (3) The Commissioner of Education;
 - (4) The Director of the Department of Finance and Administration;
- and

(5) The Insurance Commissioner, who shall serve as chair.

(b)(1) The members of the board shall receive no compensation for their services, but members other than the Commissioner of Education, the Director of the Department of Finance and Administration, and the Insurance Commissioner may receive expense reimbursement in accordance with § 25-16-901 et seq.

(2) The expense reimbursement of members of the board shall be paid from the Fidelity Bond Trust Fund.

(c)(1)(A)(i) The board shall meet at least quarterly.

(ii) However, if there is no proof of loss or other business for the board to consider, the chair may cancel a regularly scheduled quarterly meeting upon written notice to the members.

(B) The board shall also meet at any other time as necessary to carry out its responsibilities and duties, at the call of the chair, or upon the request of a majority of the board.

(2) All action of the board shall be by majority vote of the membership in attendance.

(3) If a board member is unable to attend any board meeting, the member shall appoint a designee to act as his or her representative. The representative shall have all the rights and privileges of the member represented.

History. Acts 1987, No. 728, §§ 6, 7; 1991, No. 188, §§ 1, 2; 1997, No. 250, § 212; 2005, No. 506, § 3.

21-2-709. Determination of coverage — Assignment of rights.

(a)(1)(A) Upon the receipt of the proof of loss from the Legislative Auditor, the Governmental Bonding Board shall determine whether the loss is covered under the Self-Insured Fidelity Bond Program.

(B) The board may withhold claim determination and a loss payment until the investigation in each case has been completed and

all information deemed necessary for determination of coverage under the program has been received.

(2)(A) If the board determines that the loss is covered under the program, the Insurance Commissioner shall authorize fidelity bond loss payments from the Fidelity Bond Trust Fund to the participating governmental entity on a timely basis.

(B) The board shall provide a timely explanation of a loss payment and a denial of loss to the Legislative Auditor and to the participating governmental entity.

(3) All vouchers for a loss payment shall include as supporting documents a copy of the payment recommendation by the State Risk Manager and a copy of the proof of loss from the Legislative Auditor.

(4) Any loss payment may be adjusted by any applicable deductible, restitution, or coinsurance payment.

(b)(1) Before any loss payment is paid from the fund, the recipient of the loss payment shall sign and return a transfer of rights form assigning to the fund to the extent of the loss payment all rights and claims that the recipient may have against the official, officer, or employee involved. The fund shall be subrogated to all of the rights of the recipients of the loss payment to the extent of the loss payment.

(2)(A) If the participating governmental entity shall sustain any loss that exceeds the amount of indemnity provided by the program, the participating governmental entity shall be entitled to all recoveries, except from suretyship, insurance, reinsurance, security, or indemnity taken by or for the benefit of the program, by whomever made, on account of the loss until fully reimbursed, less the amount of the deductible and coinsurance.

(B) Any remainder shall be applied to reimbursement of the program.

(3) If a participating governmental entity fails to pay over an amount due the program under these provisions, the board may deduct any amount due from future loss payments due the applicable participating governmental entity or from any treasury funds of the applicable participating governmental entity.

History. Acts 1987, No. 728, § 13;
1993, No. 319, § 4; 2005, No. 506, § 4.

21-2-711. Fidelity Bond Trust Fund.

(a) There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a separate fund to be known as the "Fidelity Bond Trust Fund".

(b)(1) No money shall be appropriated from this fund for any purpose except for the use and benefit of participating governmental entities for bond claims and for Governmental Bonding Board expenses, including, but not limited to, travel, actuarial, consultant, and service contract fees.

(2) The fund shall be administered by and disbursed at the direction of the Governmental Bonding Board.

(c)(1)(A) The assets of the fund may be invested and reinvested as the Governmental Bonding Board may determine with the advice of the State Board of Finance.

(B) All incomes derived through investment of the fund shall be credited as investment income to the fund.

(C) For the purposes of investment, fund moneys invested and interest earned on fund moneys invested shall be administered as trust funds pursuant to the provisions of § 19-3-219(a)[repealed].

(2) Further, all moneys deposited to the fund shall not be subject to any deduction, tax, levy, or any other type of assessment.

(d) All moneys received by the Governmental Bonding Board for the Self-Insured Fidelity Bond Program, including premiums collected by the Governmental Bonding Board under this subchapter, restitution, interest payments, grants, gifts, and refunds shall be deposited into the fund.

History. Acts 1987, No. 728, § 9; 2005, No. 506, § 5.

CHAPTER 3

RECRUITING, HIRING, AND APPOINTMENT

SUBCHAPTER.

1. GENERAL PROVISIONS.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

21-3-102. Selective Service registration.

21-3-102. Selective Service registration.

(a) As used in this section, “statement of selective service status” means a statement on an application for employment with the State of Arkansas or for admission to any public institution of higher education, sworn under penalty of perjury, that:

(1) The person filing the certificate is registered with the Selective Service System in accordance with the Military Selective Service Act; or

(2) The person filing the certificate is not required to register with the Selective Service System because the person is:

(A) Under eighteen (18) years of age;

(B) In the United States armed forces on active duty, other than in a reserve or national guard unit;

(C) An alien lawfully admitted to the United States as a nonimmigrant under Section 101(a)(15) of the Immigration and Nationality Act, 8 U.S.C. § 1101, for so long as he or she continues to maintain a lawful nonimmigrant status in the United States;

(D) A permanent resident of the trust territory of the Pacific Islands or the Northern Mariana Islands; or

(E) Excused from registration for other reason provided by federal law and that reason is included in the certificate.

(b) No person who is required to register with the Selective Service System shall be eligible for employment by any agency of the State of Arkansas or for admission to any public institution of higher education unless the person has signed a statement of selective service status.

History. Acts 2005, No. 1962, § 96.

U.S. Code. The Military Selective Service Act, referred to in (a)(1), is codified as 50 U.S.C. Appx. § 451 et seq.

Cross References. Selective Service registration, § 6-80-104.

SUBCHAPTER 3 — VETERANS PREFERENCES

21-3-301. Uniform Classification and Compensation Act regulations.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Veterans' Preferences, 26 U. Ark. Little Rock L. Rev. 471, 474.

Legislation, 2003 Arkansas General Assembly, Public Officers and Employees,

CHAPTER 4

ATTENDANCE AND LEAVE

SUBCHAPTER

1. GENERAL PROVISIONS.
2. UNIFORM ATTENDANCE AND LEAVE POLICY ACT.
3. MILITARY LEAVE OF ABSENCE.
5. FINANCIAL INCENTIVES TO DECREASE USE OF SICK LEAVE.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

21-4-105. Leave of absence for reexamination or treatment of service-connected disability.

SECTION.

21-4-106. Leave of absence for participation in the Healthy Employee Lifestyle Program.

21-4-105. Leave of absence for reexamination or treatment of service-connected disability.

(a) All employees of the State of Arkansas, as defined in § 21-4-203, who have been rated by the United States Department of Veterans Affairs or its predecessor to have incurred a military service-connected disability and have been scheduled by the department to be reexamined or treated for the disability shall be entitled to a leave of absence with pay for a period not to exceed six (6) days for that purpose during any one (1) calendar year.

(b)(1) If an employee receives a leave of absence under this section, the employee shall be entitled to his or her regular salary during the time the employee is away from his or her duties during the leave of absence.

(2) The leave of absence shall be in addition to the regular annual leave and sick leave allowed to the employee.

(c) During a leave of absence, the employee shall be entitled to preserve:

(1) All seniority rights, efficiency or performance ratings, promotional status, retirement privileges, and life and disability insurance benefits; and

(2) Any other rights, privileges, and benefits to which he or she has become entitled.

(d) For purposes of computations to determine whether the employee may be entitled to retirement benefits, the period of the leave of absence shall be deemed continuous service.

(e) The state shall continue to contribute its portion of any life or disability insurance premiums during the leave of absence on behalf of the employee, if requested, so that continuous coverage may be maintained.

History. Acts 2005, No. 653, § 1.

21-4-106. Leave of absence for participation in the Healthy Employee Lifestyle Program.

(a) As used in this section:

(1) "Agency" means a department, agency, bureau, including the Bureau of Legislative Research, board, or commission of any branch of state government;

(2) "Employee" means a full-time employee of the State of Arkansas or any branch, department, agency, board, bureau, including the Bureau of Legislative Research, or commission of any branch of state government; and

(3) "Healthy Employee Lifestyle Program" means the incentive program of the Department of Health that will reward regular exercise, good nutrition, and other healthy lifestyle choices;

(b)(1) Upon completion of a pilot program to be conducted by the department, the department shall:

(A) Make the Healthy Employee Lifestyle Program available to all agency directors; and

(B) Assist the agencies in the Healthy Employee Lifestyle Program's implementation.

(2) Upon completion of the pilot program, every agency director shall consider making the Healthy Employee Lifestyle Program available to the agency's employees.

(c)(1) At the discretion of the agency director, an employee may be granted paid leave of up to three (3) days per calendar year for satisfactory compliance with the Healthy Employee Lifestyle Program.

(2) The leave shall be used in the calendar year in which it was granted.

(3) The leave is not compensable at termination.

(d) Each agency shall identify and maintain, if practicable, in or near each agency building an area or areas that employees may use for walking exercise.

History. Acts 2005, No. 724, § 1.

SUBCHAPTER 2 — UNIFORM ATTENDANCE AND LEAVE POLICY ACT

SECTION.

21-4-203. Definitions.

21-4-205. Annual leave — Unused leave.

21-4-207. Sick leave — Accrual and use.

21-4-211. Educational leave.

21-4-212. Military leave.

21-4-213. Court and jury leave.

21-4-214. Catastrophic leave program.

SECTION.

21-4-215. Leave for bone marrow or organ donation — Definitions.

21-4-216. Leave for participation in children's educational activities.

Effective Dates. Acts 2007, No. 1028, § 3: July 1, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act adds to the provisions of the Uniform Attendance and Leave Policy Act and that the ideal time to implement

this change to the state's leave policies is at the beginning of the state's fiscal year. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2007."

21-4-203. Definitions.

As used in this subchapter:

(1) "Agency head" or "agency director" means the executive head of all agencies, departments, boards, commissions, bureaus, councils, or other agencies of the state;

(2) "Annual leave" means vacation time with pay but shall not include compensatory time;

(3) "Catastrophic illness" means a medical condition, as certified by a physician, of an employee or of the spouse or parent of the employee or of a child of the employee that may be claimed as a dependent under the Income Tax Act of 1929, § 26-51-101 et seq., which requires an employee's absence from duty for a prolonged period of time and which, except for the catastrophic leave program, would result in a substantial loss of income to the employee because of the exhaustion of all earned sick and annual leave;

(4) "Catastrophic leave" means leave granted to an employee as a result of a catastrophic illness, upon the employee's exhausting all sick and annual leave;

(5) "Catastrophic leave bank" means a pool of accrued annual leave donated by employees;

(6) "Compensatory time" means time off in lieu of payment for overtime hours;

(7) "Educational leave" means any period of out-service training during which time the employee pursues a regular full-time course of instruction to acquire a specific skill or skills needed;

(8) "Employee" means a person regularly appointed or employed in a position of state service by a state agency, as defined in subdivision (11) of this section, for which he or she is compensated on a full-time basis;

(9) "Probationary employee" means a person certified from a list of eligibles or employed through a work test appointment and serving a probationary period;

(10) "Provisional employee" means a person who has been appointed to fill a position pending the establishment of a register for such position;

(11) "State agencies" means all agencies, departments, boards, commissions, bureaus, councils, state-supported institutions of higher learning, or other agencies except the following excluded agencies or positions within agencies:

(A) The elected constitutional officers of this state and their employees;

(B) The General Assembly and its employees, including employees of the Bureau of Legislative Research and the Division of Legislative Audit;

(C) Members of the Supreme Court, members of the Court of Appeals, the Administrative Office of the Courts, circuit courts, and prosecuting attorneys, but not including deputy prosecuting attorneys;

(D) The Arkansas State Highway and Transportation Department; and

(E) All administrative, academic, or other nonclassified employees of the state-supported institutions of higher learning;

(12) "Temporary employee" means a person who has been appointed from a register for a period of time not to exceed six (6) months;

(13)(A) "Working day" means all regularly prescribed days of employment in which the employee performs those duties for which he or she was hired.

(B) For the purposes of this subchapter, a working day shall consist of eight (8) hours; and

(14) "Years of service" includes the total number of years of employment with all agencies of Arkansas state government whether such employment is continuous or not.

History. Acts 1975, No. 567, § 3; 1979, § 1; 1991, No. 169, § 1; 1999, No. 1044, No. 1077, § 1; 1981, No. 695, §§ 1, 2; § 6; 1999, No. 1176, § 3; 1999, No. 1438, A.S.A. 1947, § 12-2366; Acts 1991, No. 91, § 4; 2001, No. 1553, § 33.

Publisher's Notes. This section is being set out to reflect a correction to a reference in (8).

21-4-205. Annual leave — Unused leave.

(a)(1) Except as provided in subdivision (a)(2) of this section, whenever an employee is separated from the agency by reason of resignation, layoff, termination of appointment, or dismissal, the unused annual leave to his or her credit as of his or her last duty date shall be liquidated by a lump sum payment, not to exceed thirty (30) working days, inclusive of holidays.

(2) Unused annual leave to the credit of a fire and emergency service employee under § 21-4-204(a)(2) shall be liquidated by a lump sum payment, not to exceed forty-five (45) working days, inclusive of holidays.

(b)(1) Unused accumulated annual leave of a deceased employee, not to exceed thirty (30) days, shall be payable either to the estate of the deceased or to an individual authorized to receive such payment.

(2) Payment for services of an employee on leave with pay status at the time of death shall continue through close of business on the day of demise.

(3) No payment shall be made in any case until it shall have been determined that the deceased was not indebted to the agency.

(4) A voucher shall be prepared for the money due to be made payable either to the estate of the deceased or to an individual authorized to receive such payment.

History. Acts 1975, No. 567, § 4; A.S.A. substituted "Except as provided in subdivision (a)(2) of this section, whenever" for

1947, § 12-2367; Acts 2007, No. 606, § 1. "Whenever" in (a)(1); and added (a)(2).

Amendments. The 2007 amendment redesignated former (a) as present (a)(1);

21-4-207. Sick leave — Accrual and use.

(a)(1)(A) Except for the employees under subdivision (a)(1)(B) of this section, each permanent or probationary employee shall be entitled to sick leave with full pay computed on the basis of one (1) day for each complete month of service including the probationary period.

(B) Each fire and emergency service employee of the State Military Department who works a regularly scheduled shift of more than forty-seven (47) hours per week is entitled to sick leave with full pay computed on the basis of one (1) day and four (4) hours for each complete month of service.

(2)(A) Only one hundred twenty (120) days of sick leave may be carried over at the end of the calendar year.

(B)(i) Fire and emergency service employees under subdivision (a)(1)(B) of this section may accumulate one hundred eighty (180) days of sick leave to carry over at the end of the calendar year.

(ii) Payment to a fire and emergency service employee for unused sick leave at retirement under § 21-4-501 et seq. shall be calculated

at the one-hundred-eighty-day maximum rate for a fire and emergency service employee.

(3)(A)(i) An employee shall be required to furnish a certificate from an attending physician for five (5) or more consecutive days of sick leave.

(ii) An agency that has a written procedure to identify patterns of sick leave usage may require an employee to furnish a certificate from an attending physician for any use of sick leave.

(B) A certificate from a Christian Science practitioner listed in The Christian Science Journal may be submitted in lieu of a physician's certificate.

(b) Sick leave with pay shall not be granted to emergency, hourly, intermittent, or per diem employees.

(c) Sick leave with pay shall be allowed to provisional and temporary employees on the basis of one (1) day for each complete month of service.

(d) Sick leave with pay shall be allowed to permanent, probationary, provisional, and temporary employees who are working one-half ($\frac{1}{2}$) time computed on the basis of one-half ($\frac{1}{2}$) the rate of the schedule for full-time employees for each complete month of service.

(e)(1) Sick leave may not be accumulated during a period of leave without pay when such leave is for ten (10) or more days within a calendar month.

(2) Saturdays, Sundays, holidays, and nonworking days within a period of sick leave shall not be charged as sick leave. Sick leave granted shall be based on working days.

(3) Employees transferring between state agencies without a break in service shall, at the time of transfer, retain all accumulated sick leave credits.

(4) Whenever an employee is laid off because of budgetary reasons or curtailment of activities and he or she is reinstated within a period of six (6) months, accumulated sick leave may be restored to his or her credit.

(f)(1) Except in the case of maternity leave, absences due to sick leave shall be charged in the following order:

- (A) Earned sick leave;
- (B) Earned annual leave;
- (C) Catastrophic leave, when authorized;
- (D) Leave without pay, when authorized.

(2)(A) Requests for sick leave shall be applied for in advance.

(B) If the nature of the sickness makes this impossible, notification of absence on account of sickness shall be given as soon as possible on the first day of absence to the head of the department or the person in charge of the office, and application for sick leave shall be filed within two (2) days after return to duty.

(C) If notification is not made in accordance with the procedure in this section, the absence shall be charged to annual leave or leave without pay, at the discretion of the agency director.

(3) The minimum charge for absence on account of sickness shall be fifteen (15) minutes.

History. Acts 1975, No. 567, § 5; 1983, No. 129, § 1; A.S.A. 1947, § 12-2368; Acts 1989, No. 265, § 1; 1991, No. 91, § 3; 1991, No. 169, § 3; 1997, No. 155, § 2; 2003, No. 356, § 3; 2003, No. 835, § 2; 2007, No. 606, § 2.

Amendments. The 2007 amendment, in (a)(2)(B)(ii), substituted "Payment to a

fire and emergency service employee for unused sick leave" for "However, payments to fire or emergency service employees for unused leave" and "one-hundred-eighty-day maximum rate for a fire and emergency service employees" for "one-hundred-twenty-day maximum rate for regular state employees."

21-4-211. Educational leave.

A permanent employee who is given out-service training may be granted educational leave by the agency director on the following basis:

(1) The employee will continue in the service of the agency for a period of time as statutorily required or, in the absence of a specific law, at least twice the length of his or her course of training;

(2)(A) Any employee who does not fulfill these obligations shall be required to pay to the agency the total cost, or a proportionate share of the cost, of the out-service training and compensation paid during the training period.

(B) A written contract shall be signed by the employee and the agency setting forth all terms of the agreement;

(3) The employee shall retain all rights in the position held at the time when leave was granted or in a position with comparable security and pay;

(4) The employee shall retain all benefits and rights during the training period that accrued during that time to regular employees;

(5) The amount of salary paid during the training period shall be as agreed by the employee and agency director but shall not exceed the regular salary paid the employee; and

(6)(A) Payment of tuition, fees, books, and transportation may be made if moneys have been specifically appropriated by the General Assembly for those purposes or if the Department of Health provides assistance to employees of the department who are seeking a master's degree, a doctor of public health degree, or a doctor of philosophy degree in public health.

(B) The department shall not provide the assistance authorized under subdivision (6)(A) of this section to more than twelve (12) employees in any fiscal year.

History. Acts 1975, No. 567, § 9; A.S.A. 1947, § 12-2372; Acts 1999, No. 193, § 1; 2007, No. 280, § 1; 2009, No. 252, § 1.

Amendments. The 2007 amendment added the (A) and (B) designations in (2); and rewrote (6).

The 2009 amendment made minor stylistic changes in (5); in (6)(A), substituted

"department" for "Division of Health of the Department of Health," substituted "a doctor of public health" for "DrPH" and substituted "a doctor of philosophy degree" for "PhD degree."

21-4-212. Military leave.

(a)(1) Employees who are members of the armed forces of this state or any other state, including without limitation the National Guard or a reserve component of the armed forces, shall be granted leave at the rate of fifteen (15) days per calendar year plus necessary travel time for annual training requirements or other duties performed in an official duty status.

(2) To the extent this leave is not used in a calendar year, it will accumulate for use in the succeeding calendar year until it totals fifteen (15) days at the beginning of a calendar year.

(3) The leave shall be granted without loss of pay and in addition to regular vacation time.

(4) Each employee who requests military leave shall furnish a copy of his or her orders for his or her personnel file.

(b)(1) An employee who is drafted or called to active duty in the armed forces of the United States or who volunteers for military service shall be placed on extended military leave without pay and upon application within ninety (90) days after the effective date of his or her release from active duty shall be reinstated to the position vacated or an equivalent position at no loss of seniority or any of the other benefits and privileges of employment.

(2) The right of reemployment shall conform with all federal government rules and regulations.

(c)(1) Personnel called to duty in emergency situations by the Governor or the President shall be granted leave with pay not to exceed thirty (30) working days after which leave without pay will be granted. This leave shall be granted in addition to regular vacation time.

(2) As used in this section, "emergency situations" means:

(A) Any case of invasion, disaster, insurrection, riot, breach of peace, or imminent danger thereof;

(B) Threats to the public health or security; or

(C) Threats to the maintenance of law and order.

(d)(1) During any military leave of absence, the employee shall preserve all seniority rights, efficiency or performance ratings, promotional status, retirement privileges, life and disability insurance benefits, and any other rights, privileges, and benefits to which the employee has become entitled.

(2) For purposes of computations to determine whether the person may be entitled to retirement benefits, the period of military service shall be deemed continuous service, and the employee shall not be required to make any contributions to any retirement fund.

(3) The state shall continue to contribute its portion of any life or disability insurance premiums during the leave of absence on behalf of the employee, if requested, so that continuous coverage may be maintained.

(e) Whenever an employee as defined under § 21-4-203 or an employee of a political subdivision is granted military leave for a period of

fifteen (15) days per calendar year or fiscal year under this section, the military leave shall accumulate for use in succeeding calendar years or fiscal years until it totals fifteen (15) days at the beginning of the calendar year or fiscal year, for a maximum number of thirty (30) military leave days available in any one (1) calendar year or fiscal year.

History. Acts 1975, No. 567, § 7; A.S.A. 1947, § 12-2370; Acts 1989, No. 586, § 1; 1991, No. 673, § 3; 1991, No. 956, § 1; 2011, No. 1164, § 3.

Amendments. The 2011 amendment

rewrote (a)(1); deleted former (c) and redesignated the remaining subsections accordingly; and inserted "As used in this section" in the introductory language of present (c)(2).

21-4-213. Court and jury leave.

(a) An employee serving as a juror in state or federal court shall be entitled to full compensation in addition to any fees paid for such services, and such services or necessary appearances in any court shall not be counted as annual leave.

(b) If an employee is subpoenaed as a witness to give a deposition or testimony in state or federal court, at a hearing, or before any body with power to issue a subpoena, the employee is:

(1) Entitled to his or her salary if the employee is a witness in a matter:

(A) Within the employee's scope of state employment; or

(B) Outside the employee's scope of state employment and the employee is not serving as a paid expert witness or is not a party to the matter; and

(2) Required to take annual leave to attend the deposition, hearing, or appear in court only if the matter is outside of the employee's scope of state employment and the employee is serving as a paid expert witness or is a party to the matter.

(c)(1) If a law enforcement officer is subpoenaed to appear at a time when the law enforcement officer is not scheduled for regular duty:

(A) This section shall not apply; and

(B) The law enforcement officer shall be entitled to retain witness and mileage fees tendered to the law enforcement officer.

(2) As used in this section, "law enforcement officer" means any public servant vested by law with a duty to maintain public order or to make arrests for offenses.

History. Acts 1975, No. 567, § 8; A.S.A. 1947, § 12-2371; Acts 2003, No. 835, § 4; 2005, No. 1845, § 3.

21-4-214. Catastrophic leave program.

(a)(1) The Department of Finance and Administration shall have administrative responsibility for developing, implementing, and maintaining a catastrophic leave bank program.

(2) Each state agency approved by the department to participate in the catastrophic leave bank program may establish a catastrophic leave

bank for its employees, or the state agency may participate in a catastrophic leave bank to be administered by the Office of Personnel Management of the Division of Management Services of the Department of Finance and Administration.

(b) Accrued annual leave and sick leave of employees may be donated to a catastrophic leave bank.

(c) Catastrophic leave with pay may be granted to an employee when the employee is unable to perform his or her duties due to a catastrophic illness.

(d) An employee may be eligible for catastrophic leave when:

(1)(A) The employee has been employed by the state for more than two (2) years or was previously employed by a public school district or state-supported institution of higher learning for more than two (2) years.

(B) A person who was employed by a public school district or state-supported institution of higher learning for less than two (2) years also is eligible for catastrophic leave if:

(i) The person's combined years of employment with the state and with a public school district or state-supported institution of higher learning totals more than two (2) years; and

(ii) The lapse in the person's employment between the state and a public school district or state-supported institution of higher learning is less than six (6) months;

(2)(A) At the onset of the illness or injury the employee had to his or her credit at least eighty (80) hours of combined sick and annual leave and has exhausted all such leave, unless the combined sick and annual leave requirement is waived under subdivision (d)(2)(B) of this section.

(B) A state agency director or a president of an institution of higher education may waive the minimum eighty-hour requirement for combined sick and annual leave if the agency director determines that the employee warrants eligibility because of extraordinary circumstances under the standards and guidelines promulgated under subdivision (f)(2) of this section;

(3) An acceptable medical certificate from a physician supporting the continued absence is on file; and

(4) The employee has not been disciplined for any leave abuse during the past two (2) years.

(e) If the illness or injury is that of an employee and is covered by workers' compensation, the compensation based on catastrophic leave when combined with the weekly workers' compensation benefit received by the employee shall not exceed the compensation being received by the employee at the onset of the illness or injury.

(f) The Director of the Department of Finance and Administration, or the director's designee, shall promulgate rules and regulations:

(1) As deemed necessary to carry out the provisions of this section; and

(2) To prescribe the standards and guidelines of the extraordinary circumstances that the state agency director or the president of an

institution of higher education may use to waive the minimum requirement for combined sick and annual leave.

History. Acts 1991, No. 91, § 2; 1991, No. 169, § 2; 1999, No. 1176, § 4; 2003, No. 194, §§ 1, 2; 2009, No. 870, § 1. **Amendments.** The 2009 amendment rewrote (d)(1).

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Catastrophic Leave Program, 26 U. Ark. Legislation, 2003 Arkansas General Assembly, Public Officers and Employees, Little Rock L. Rev. 474.

21-4-215. Leave for bone marrow or organ donation — Definitions.

(a) As used in this section:

(1) “Bone marrow donor” means a person from whose body bone marrow is taken to be transferred to the body of another person;

(2) “Organ” means a human organ that is capable of being transferred from the body of a person to the body of another person, including eyes;

(3) “Organ donor” means a person from whose body an organ is taken to be transferred to the body of another person;

(4) “Public school” means any public school or education service cooperative located in the State of Arkansas;

(5) “Public school employee” means a full-time employee of a public school or education service cooperative;

(6) “State agency” means an agency, bureau, board, or commission of any branch of state government, and all state-supported institutions of higher education; and

(7) “State employee” means a full-time employee of the State of Arkansas or any branch, department, board, bureau, commission, or state-supported institution of higher education.

(b) In any calendar year, a state employee or public school employee is entitled to the following leave in order to serve as an organ donor or a bone marrow donor:

(1) No more than seven (7) days of leave to serve as a bone marrow donor; and

(2) No more than thirty (30) days of leave to serve as an organ donor.

(c) In order to qualify for the leave, the state employee or public school employee must:

(1) Request the leave in writing;

(2) Provide the employing agency written verification by the physician to perform the transplantation that the employee is to serve as a human organ or bone marrow donor; and

(3) Provide the employing agency written verification by the physician performing the transplantation that the employee did serve as a human organ or bone marrow donor.

(d) A state employee or school employee may use the leave as provided in this section without loss or reduction in pay, leave, or credit for time of service.

(e) A state agency or public school shall not penalize an employee for requesting or obtaining leave pursuant to this section.

History. Acts 2003, No. 546, § 3; 2007, substituted “education service cooperative” for “educational cooperative” in (a)(4) No. 617, § 41.

Amendments. The 2007 amendment and (a)(5).

21-4-216. Leave for participation in children’s educational activities.

(a) As used in this section:

(1)(A) “Child” means a person enrolled in an educational program for prekindergarten through grade twelve (preK-12) who is of the following relation to a state employee:

- (i) Natural child;
- (ii) Adopted child;
- (iii) Stepchild;
- (iv) Foster child;
- (v) Grandchild;

(vi) Ward of the state employee by virtue of the state employee’s having been appointed the person’s legal guardian or custodian; or

(vii) Any other legal capacity in which the employee is acting as a parent for the child.

(B) “Child” includes a person who meets the criteria of subdivision (a)(1)(A) of this section but is:

- (i) Over eighteen (18) years of age; and
- (ii) Declared legally incompetent;

(2)(A) “Educational activity” means any school-sponsored activity.

(B) “Educational activity” includes without limitation:

- (i) A parent-teacher conference;
- (ii) Participation in school-sponsored tutoring;
- (iii) Participation in a school-sponsored volunteer program;
- (iv) A field trip;
- (v) A classroom program;
- (vi) A school committee meeting;
- (vii) An academic competition;

(viii) Assisting with athletic, music, or theater programs; and

(ix) Any of the activities listed in subdivisions (a)(2)(B)(i)-(viii) of this section that are connected with a prekindergarten program;

(3) “Prekindergarten” means an educational and child development program that is designed to prepare children who are at least three (3) years of age for an academic kindergarten program;

(4) “State agency” means an agency, a bureau, a board, or a commission of any branch of state government and all state-supported institutions of higher education; and

(5) "State employee" means a full-time employee of the State of Arkansas or any branch, department, board, bureau, commission, or state-supported institution of higher education

(b)(1) All state employees shall be entitled to eight (8) hours of leave during any one (1) calendar year for the purpose of attending or assisting with the educational activities of a child.

(2) Leave under subdivision (b)(1) of this section:

(A) That is unused may not be carried over to the next calendar year; and

(B) Is not compensable to the state employee at the time of retirement.

History. Acts 2007, No. 1028, § 2; 2011, No. 584, §§ 1, 2.

A.C.R.C. Notes. Acts 2007, No. 1028, § 1, provided: "Legislative intent. The purpose of this act is to allow state employees an opportunity to participate in their children's educational activities by

granting eight (8) hours of children's educational activity leave per calendar year."

Amendments. The 2011 amendment redesignated former (a)(1)(A) through (G) as (a)(1)(A)(i) through (vii); inserted "an educational program for" in (a)(1)(A); and added (a)(1)(B), (a)(2)(B)(ix), and (a)(3).

SUBCHAPTER 3 — MILITARY LEAVE OF ABSENCE

SECTION.

21-4-302. Officers — Leaves granted.

21-4-302. Officers — Leaves granted.

(a) Subject to the provisions of this subchapter, the following officers shall be granted leave of absence from their respective offices and duties to perform active military service:

- (1) State officials;
- (2) County officials;
- (3) County school officials;
- (4) Municipal officials;
- (5) Township officials; and

(6) All others who hold an elected office under the government of the State of Arkansas.

(b) When an officer volunteers or is called into active duty in the armed forces of the United States during war, the Governor, or person or persons whose duty it is to fill the vacancy should there be one, shall, upon application being made by the officer, grant the officer a leave of absence during the time the officer is retained in the military service, subject to the exceptions provided in this subchapter.

(c)(1) An officer who volunteers or is called into active duty in the armed forces of the United States shall not be deemed to have forfeited his or her office during his or her leave of absence for military duty.

(2) Upon completion of active military duty, the officer shall be permitted to resume his or her office for the remainder of the term for which he or she was elected.

History. Acts 1943, No. 247, §§ 2, 3; A.S.A. 1947, §§ 12-2302, 12-2303; Acts 2009, No. 775, § 1.

Amendments. The 2009 amendment

rearranged and redesignated the provisions of (a); added (c); and made minor stylistic changes.

SUBCHAPTER 5 — FINANCIAL INCENTIVES TO DECREASE USE OF SICK LEAVE

SECTION.

21-4-502. [Repealed.]

21-4-503. Applicability of subchapter.

21-4-505. Compensation for unused sick leave of nonclassified em-

ployees of state-supported institutions of higher education — Calculation for unused sick leave.

Effective Dates. Acts 2007, No. 447, § 2: Mar. 22, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that some retiring classified and nonclassified employees of two-year colleges have not received the benefits intended by the prior law; that this act clarifies the eligibility of all classified and nonclassified employees for these benefits; and that this act is immediately necessary to preserve that eligibility for those employees of two-year colleges making retirement decisions before the end of the current semester. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2009, No. 220, § 3: Feb. 25, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that some retiring classified and nonclassified employees of two-year colleges have not received the benefits intended by prior law; that this act clarifies the eligibility of nonclassified employees for these benefits; and that this act is immediately necessary to preserve that eligibility for those nonclassified employees of two-year colleges making retirement decisions before the end of the

current semester. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2011, No. 337 § 2: Mar. 18, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that some nonclassified employees who have retired from state-supported institutions of higher education have not received the benefits intended under current law due to unclear language; that clarification of the eligibility of nonclassified employees to receive unused sick leave benefits is needed; and that this act is immediately necessary for nonclassified employees of state-supported institutions of higher education to make retirement decisions for the end of the current academic semester. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

21-4-502. [Repealed.]

Publisher's Notes. This section, concerning lump sum payment for unused sick leave in 2000, was repealed by Acts

2005, No. 1962, § 97. The section was derived from Acts 1999, No. 1127, § 2.

21-4-503. Applicability of subchapter.

- (a) The provisions of §§ 21-4-501 and 21-4-504 apply to:
 - (1) Employees of the Arkansas State Game and Fish Commission;
 - (2) Employees of the Arkansas State Highway and Transportation Department;
 - (3) Classified employees of state-supported institutions of higher education; and
 - (4) Employees of all agencies of this state whether in the executive, legislative, or judicial branch of government.
- (b) The provisions of this section or any amendments to this section shall not change any employee benefits or agreements established under § 6-57-103, § 6-58-105, or § 6-59-105.
- (c) Compensation for accumulated unused sick leave under the provisions of this subchapter shall not be used by the Arkansas Teacher Retirement System in the calculation of "final average salary" pursuant to § 24-7-202.

History. Acts 1999, No. 1127, § 3; 2005, No. 1288, § 1; 2009, No. 220, § 1.

Amendments. The 2009 amendment, in (a), redesignated the text, substituted "§ 21-4-501 and § 21-4-504" for "this sub-

chapter" in the introductory language, substituted "education" for "learning" in (a)(3), and made related and stylistic changes.

21-4-505. Compensation for unused sick leave of nonclassified employees of state-supported institutions of higher education — Calculation for unused sick leave.

- (a) At its discretion, a state-supported institution of higher education may compensate a nonclassified employee of the state-supported institution of higher education for accumulated unused sick leave by providing to the nonclassified employee the same compensation for accumulated unused sick leave provided to a classified employee of the state-supported institution of higher education under § 21-4-501.
- (b) Compensation for accumulated unused sick leave under this section shall not be used by the:
 - (1) Arkansas Teacher Retirement System in the calculation of final average salary under § 24-7-202; or
 - (2) Arkansas Public Employees' Retirement System in the calculation of final average compensation under § 24-4-101.
- (c) Unused sick leave for nonclassified employees of state-supported institutions of higher education shall accrue at the same rate as unused sick leave accrues for classified employees for calculations made under this section.

History. Acts 2009, No. 220, § 2; 2011, No. 337, § 1.

A.C.R.C. Notes. Acts 2007, No. 447, §§ 1 and 2, provided:

“SECTION 1. Arkansas Code § 21-4-505(a), concerning the unused sick leave of employees of two-year colleges, is amended to read as follows:

“(a) A two-year college may provide compensation for unused sick leave as allowed under this subchapter to all classified and nonclassified employees of the two-year college.

“SECTION 2. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that some retiring classified and nonclassified employees of two-year colleges have not received the benefits intended by the prior law; that this act clarifies the eligibility of all classified and nonclassified employees for these benefits; and that this act is immediately necessary to preserve that eligibility for those employees of two-year colleges making retirement decisions before the end of the current semester.

Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on:

“(1) The date of its approval by the Governor;

“(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

“(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Publisher's Notes. A former section 21-4-505, concerning employees of two-year colleges, was repealed by Acts 2007, No. 827, § 173. The former section was derived from Acts 2005, No. 971, § 1.

Amendments. The 2011 amendment rewrote the section heading; in (a), substituted “a state-supported institution” for “a two-year institution” and substituted “the state-supported institution of higher education” for “the institution” twice; and added (c).

CHAPTER 5 COMPENSATION AND BENEFITS

SUBCHAPTER

1. GENERAL PROVISIONS.
2. UNIFORM CLASSIFICATION AND COMPENSATION ACT.
3. SUPPLEMENTAL PERSONAL SERVICES. [REPEALED.]
4. STATE AND PUBLIC SCHOOL LIFE AND HEALTH INSURANCE BOARD.
5. DEFERRED COMPENSATION.
6. PUBLIC EMPLOYEE WORKERS' COMPENSATION ACT.
7. DEATH BENEFITS.
10. EMPLOYEE PERFORMANCE EVALUATION.
11. CAREER LADDER INCENTIVE PROGRAM.
12. ACTIVE DUTY AFTER SEPTEMBER 11, 2001.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 21-5-101. Regular Salary Procedures and Restrictions Act.
- 21-5-106. Annual career service recognition payments for state employees.

SECTION.

- 21-5-109. New employees — Electronic direct deposit.

A.C.R.C. Notes. Acts 2011, No. 212, § 5, provided: “SALARIES. In order that exceptionally well-qualified personnel

may be recruited and retained, the Office of the Governor may exceed the maximum salary levels by no more than twenty

percent (20%) for no more than one-third ($\frac{1}{3}$) of the positions authorized in the operation appropriation act after receiving approval from the Arkansas Legislative Council or Joint Budget Committee.”

Effective Dates. Acts 2007, No. 386, § 2: July 1, 2007. Emergency clause provided: “It is found and determined by the General Assembly that provisions of this act change the Uniform Attendance and Leave Policy Act and should become effective July 1, 2007, for consistent application and to avoid confusion and that unless this emergency clause is adopted, this act will not go into effect until after the beginning of the next fiscal year. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after July 1, 2007.”

Acts 2007, No. 799, § 4: July 1, 2007. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act affects the consideration of retirement

benefits in the Arkansas Public Employees’ Retirement System and that the ideal and most efficient time to make revisions to the consideration of retirement benefits is at the beginning of the state’s fiscal year. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2007.”

Acts 2009, No. 688, § 15: July 1, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the fiscal year for employees begins on July 1 of every year and that the implementation of the Uniform Classification and Compensation Act is immediately necessary to ensure the continued services and operations of the state. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2009.”

21-5-101. Regular Salary Procedures and Restrictions Act.

(a) This section shall be known as and may be cited as the “Regular Salary Procedures and Restrictions Act”.

(b) Arkansas Constitution, Article 16, § 4, provides: “The General Assembly shall fix the salaries and fees of all officers in the State, and no greater salary or fee than that fixed by law shall be paid to any officer, employee or other person, or at any rate other than par value; and the number and salaries of the clerks and employees of the different departments of the State shall be fixed by law.” Therefore, the following provisions shall be applicable to all authorized regular salary positions in appropriation acts unless specific exception is made otherwise by law:

(1) For any position authorized by the General Assembly of the State of Arkansas for the benefit of any department, agency, board, commission, institution, or program for which the provisions of the Uniform Classification and Compensation Act, § 21-5-201 et seq., are to be applicable, it is declared to be the intent of the General Assembly that the Uniform Classification and Compensation Act, § 21-5-201 et seq., shall govern with respect to:

(A) The entrance salary;

(B) The frequency with which salary increases may be granted; and

(C) The maximum annual salary that may be paid for the grade assigned each employee under the provisions of the Uniform Classification and Compensation Act, § 21-5-201 et seq.;

(2) For any position authorized by the General Assembly for the benefit of any department, agency, board, commission, institution, or program for which a maximum annual salary is set out in dollars, it is the intent of the General Assembly that the position is to be paid at a rate of pay not to exceed the maximum established for the position during any one (1) fiscal year and that the maximum annual salary authorized is for full-time employment;

(3)(A) For all positions authorized by the General Assembly for any department, agency, board, commission, institution, or program, it is the intent of the General Assembly that in determining the annual salaries of such employees, the administrative head of the department, agency, board, commission, institution, or program shall take into consideration ability of the employee and length of service.

(B) It is not the intent of the General Assembly that the maximum annual salaries as authorized in the appropriation act, or step increases established for the various grades under the provisions of the Uniform Classification and Compensation Act, § 21-5-201 et seq., be paid unless the employee possesses such qualifications and then only within the limitations of the appropriations and funds available for that purpose.

(C) No employee authorized by the General Assembly shall receive from appropriated or cash funds, either from state, federal, or other sources, compensation in an amount greater than that established by the General Assembly as the maximum annual salary for the employee, unless specific provisions are made therefor by law; and

(4) No employee of the State of Arkansas shall be paid any additional cash allowances including, but not limited to, uniform allowance, clothing allowance, motor vehicle depreciation or replacement allowance, fixed transportation allowance, or meals and lodging allowance other than for reimbursement for costs actually incurred by the employee unless the allowances are specifically set out by law as to eligibility of employees to receive the allowances, and the maximum amount of such allowances are established by law for each employee or for each class of employees eligible to receive the allowances.

History. Acts 1973, No. 284, §§ 1, 2; A.S.A. 1947, §§ 12-1601.1, 12-1601.2; Acts 2009, No. 688, § 2.

Amendments. The 2009 amendment, in (b), deleted “step” at the end of (b)(1)(A),

substituted “salary” for “step” in (b)(1)(B), and inserted “and that the maximum annual salary authorized is for full-time employment” in (b)(2).

21-5-106. Annual career service recognition payments for state employees.

(a)(1)(A) Employees of state agencies and nonfaculty employees of institutions of higher education shall become eligible for annual

career service recognition payments upon completion of ten (10) or more years of service in either elected positions or classified or nonclassified positions with an agency or institution of the State of Arkansas.

(B) To receive the full amount authorized in subsection (c) of this section, the service shall have been in either elected positions or regular full-time positions.

(C) Employees who work part-time in regular salary positions may receive annual career service recognition payments on a pro rata basis.

(2) Periods of authorized leave without pay and leave of absence for military service when veterans' reemployment rights are exercised shall not negate eligibility for the payment, provided all other eligibility requirements are met.

(b) The Office of Personnel Management of the Division of Management Services of the Department of Finance and Administration shall establish and publish policies and procedures for the administration of career service recognition payments to state employees upon a determination by the Chief Fiscal Officer of the State that sufficient funds are available for such purpose.

(c) An employee who meets eligibility requirements established by subsection (a) of this section shall become eligible for annual career service recognition payments on the anniversary date of the completion of such service according to the following schedule:

STATE SERVICE	ANNUAL PAYMENT
10 through 14 years of state service	\$600
15 through 19 years of state service	700
20 through 24 years of state service	800
25 or more years of state service	900

(d) Career service recognition payments authorized by this section shall be:

(1) Subject to withholding of all applicable state and federal taxes; and

(2) Included by retirement systems in determining benefits.

History. Acts 1989, No. 882, §§ 1-4; 1991, No. 566, § 1; 1995, No. 490, § 1; 1999, No. 882, § 2; 2007, No. 386, § 1; 2007, No. 799, § 1; 2009, No. 688, § 3.

Amendments. The 2007 amendment by No. 386 substituted "\$600" for "\$300," "\$700" for "\$400," "\$800" for "\$500," and "\$900" for "\$600" in the table in (c); in (d), subdivided the provisions as (1) and (2), substituted "Included" for "shall not be included" in (2), and made related changes.

The 2007 amendment by No. 799, in (d), subdivided the provisions as (1) and (2), substituted "Included" for "shall not be included" in present (2), and made related and stylistic changes.

The 2009 amendment, in (a)(1), substituted "To receive the full amount authorized in subsection (c) of this section" for "However" in (a)(1)(B), and inserted (a)(1)(C).

21-5-109. New employees — Electronic direct deposit.

(a)(1)(A) As a condition of employment, a person hired or appointed to a position in any agency in state government on or after August 12, 2005, shall be required to accept payment of salary or wages by electronic warrants transfer.

(B) The electronic warrants transfer shall be made in the form of a direct deposit of funds to the account of the beneficiary of the payment in any financial institution equipped for electronic fund transfers, provided that the financial institution is designated in writing by the beneficiary and has lawful authority to accept such deposits.

(2)(A)(i) Any person affected by the direct deposit requirement set forth in subdivision (a)(1) of this section may request an exemption from the requirement.

(ii) The Chief Fiscal Officer of the State may grant an exemption from the direct deposit requirement upon a showing of hardship to the person requesting the exemption or upon any other reasonable basis.

(B) The Chief Fiscal Officer of the State shall establish the standards and procedures for granting an exemption from the direct deposit requirement set forth in subdivision (a)(1) of this section.

(3) The direct deposit requirement set forth in subdivision (a)(1) of this section shall not apply to a person who is in the employment of the state prior to August 12, 2005, and subsequently receives a promotion appointment, transfer, or other change in position within the same personnel system on or after August 12, 2005.

(b)(1) As used in subdivision (a)(1) of this section, "agency" means all state agencies, boards, commissions, bureaus, councils, or programs except:

(A) The elected constitutional officers of the State of Arkansas and their employees;

(B) The General Assembly and its employees, including employees of the Bureau of Legislative Research and the Division of Legislative Audit;

(C) Members and employees of the Supreme Court, the Administrative Office of the Courts, circuit courts, and prosecuting attorneys, not including deputy prosecuting attorneys;

(D) The Arkansas State Game and Fish Commission;

(E) The Arkansas State Highway and Transportation Department; and

(F) All administrative, academic, classified, and nonclassified employees of the state-supported institutions of higher learning.

(2) Any agency, board, commission, bureau, council, or program exempted under this subsection (b) from the direct deposit requirement set forth in subdivision (a)(1) of this section may elect to enter the electronic warrants transfer system on a voluntary basis.

(c) The Chief Fiscal Officer of the State may establish any special account necessary to facilitate direct deposit of employee salaries or wages.

History. Acts 2005, No. 1887, § 1; Acts 2007, No. 827, § 174.

A.C.R.C. Notes. As enacted by Acts 2005, No. 1887, § 1, subdivision (a)(1)(A) of this section read “As a condition of employment, a person hired or appointed to a position in any agency in state government on or after the effective date of this act shall be required to accept payment of salary or wages by electronic warrants transfer.”

As enacted by Acts 2005, No. 1887, § 1, subdivision (a)(3) of this section read “The

direct deposit requirement set forth in subdivision (a)(1) of this section shall not apply to a person who is in the employment of the state prior to the effective date of this act and subsequently receives a promotion appointment, transfer, or other change in position within the same personnel system on or after the effective date of this act.”

Amendments. The 2007 amendment, in (b)(1), substituted “As used” for “For purposes of the direct deposit requirement set forth,” and made a stylistic change.

SUBCHAPTER 2 — UNIFORM CLASSIFICATION AND COMPENSATION ACT

SECTION.

21-5-203. Definitions.

21-5-206. Legislative Council — Duties.

21-5-207. Office of Personnel Management — Duties.

21-5-208. Classification of positions.

21-5-209. Compensation plan.

21-5-210. Implementation of plan — Changes in class specifications.

21-5-211. Implementation procedure for grade changes — Salary adjustments.

21-5-212. Rehired or transferred employees.

SECTION.

21-5-213. [Repealed.]

21-5-214. New appointments and other compensation plan provisions.

21-5-219. Nonclassified employees.

21-5-220. Shift differential.

21-5-221. Compensation differentials.

21-5-222. Salary administration grids.

21-5-223. Severance pay.

21-5-224. Extra help positions.

21-5-225. Position pools.

A.C.R.C. Notes. Acts 2005, No. 2198, § 4, provided: “Lump Sum Payment.

“(a) If an agency director determines that it is necessary to implement the state workforce reduction policy due to agency structure change, budgetary reductions, abolishment of positions or duties, loss of functional responsibility by the agency, or the loss of federal funding, grants, or other special funds, the agency director may request and upon approval by the Chief Fiscal Officer of the State the payment of funds on a regular payroll schedule as severance pay to full-time, part-time, and job sharing classified and nonclassified employees in regular positions affected by the workforce reduction on the basis of the following lump sum for

completed years of service including probationary period:

“1-5 years eight hundred dollars (\$800)

“5-15 years twelve hundred dollars (\$1200)

“over 15 years sixteen hundred dollars (\$1600).

“(b) The payments are in addition to the lump sum payments allowed pursuant to the Uniform Attendance and Leave Policy Act, § 21-4-201 et seq.

“(c) The payments shall not be construed as exceeding the maximum salary.

“(d) The agency director shall file a notice of the implementation of the lump sum payment due to the state workforce reduction policy with Legislative Council

or the Joint Budget Committee if the General Assembly is in session.

"(e) This section is effective until June 30, 2007."

Acts 2007, No. 868, § 1, provided:

"(a) The Office of Personnel Management shall conduct a study of the current state employee pay plan and classification system.

"(b) The study shall include without limitation job evaluations, performance evaluation systems, salary surveys, classification structure, and the development of a total classification plan.

"(c) The Office of Personnel Management shall include in the group conducting the study:

"(1) The Chair of the Senate Committee on State Agencies and Governmental Affairs or his or her designee;

"(2) The Chair of the House Committee on State Agencies and Governmental Affairs or his or her designee; and

(3) The cochair of the Personnel Subcommittee of the Legislative Council or their designees.

"(d) The study shall be reviewed by the Personnel Subcommittee of the Legislative Council.

"(e) Recommendations on changes shall be presented to the Legislative Council or Joint Budget Committee no later than October 1, 2008."

Acts 2007, No. 868, § 2, provided:

"A report on the progress of this study shall be submitted monthly to the Governor and to either the Legislative Council or the Joint Budget Committee or a subcommittee of either one as determined and appointed by the cochairs."

Effective Dates. Acts 2003 (1st Ex. Sess.), No. 22, § 8: July 1, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that several changes in compensation levels enacted during the previous session of the General Assembly were applicable to the current biennium and that without this act becoming effective at the beginning of the fiscal year state employees could not be compensated at the approved level. Therefore, an emergency is declared to exist and Section 7 of this act being necessary for the preservation of the public peace, health and safety shall become effective after the date of its passage and approval. If the bill is neither approved nor vetoed

by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto a bill. If the bill is vetoed by the Governor and veto is overridden, it shall become effective on the date the last house overrides the veto; and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2003."

Acts 2005, No. 1852, § 2: July 1, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that several changes in title and grades in the state compensation system have been approved for use by state agencies; that these changes must go into effect at the beginning of the fiscal year when the new agency budgets go into effect; and that this act is necessary on July 1, 2005, because state agencies will not be able to function properly without this act taking effect on the first day of the new fiscal year. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005."

Acts 2005, No. 2198, § 5: July 1, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that several changes in title and grades in the state compensation system have been approved for use by state agencies; that these changes must go into effect at the beginning of the fiscal year when the new agency budgets go into effect; and that this act is necessary on July 1, 2005, because state agencies will not be able to function properly without this act taking effect on the first day of the new fiscal year. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005."

Acts 2007, No. 375, § 3: July 1, 2007. Emergency clause provided: "It is found and determined by the General Assembly that provisions of this act changes the Uniform Attendance and Leave Policy Act and should become effective July 1, 2007, for consistent application and to avoid confusion and that unless this emergency clause is adopted, this act will not go into effect until after the beginning of the next

fiscal year. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after July 1, 2007."

Acts 2007, No. 376, § 2: July 1, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that several changes in title and grades in the state compensation system have been approved for use by state agencies; that these changes must go into effect at the beginning of the fiscal year when the new agency budgets go into effect; and that this act is necessary on July 1, 2007, because state agencies will not be able to function properly without this act taking effect on the first day of the new fiscal year. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2007."

Acts 2009, No. 688, § 15: July 1, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the fiscal

year for employees begins on July 1 of every year and that the implementation of the Uniform Classification and Compensation Act is immediately necessary to ensure the continued services and operations of the state. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2009."

Acts 2011, No. 1017, § 11: July 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the state salary classification schedules must be updated and revised; that the fiscal year for state employees begins each July 1; and that this act is essential and immediately necessary to implement the Uniform Classification and Compensation Act and to ensure the continued, uninterrupted operation of state government and services. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace health, and safety shall become effective on July 1, 2011."

21-5-203. Definitions.

As used in this subchapter:

(1) "Agency director" means the executive head of all agencies, authorities, departments, boards, commissions, bureaus, councils, or other agencies of the state;

(2) "Base pay level" means the maximum entry level for classifications assigned to the career service pay plan;

(3) "Base range" means the range of pay between the entry pay level and the base pay level of the appropriate grade for classifications assigned to the career service pay plan;

(4) "Career pay level" means the salary level established on the career service compensation plan in a pay grade that is authorized only for current employees who meet established eligibility criteria;

(5) "Class" or "classification" means a group of positions sufficiently similar as to duties performed, scope of discretion and responsibility, minimum requirements of training and experience or skill, and other characteristics that the same title, the same test of fitness, and the same scale of compensation have been or may be applied to each position in the group;

(6) "Class specification" means a written document which identifies a group of positions that have the same type of work and responsibility

and states the general components by providing a class title, class code, distinguishing features and examples of work, knowledge, skills, and abilities, and the necessary minimum education and experience requirements to perform the assigned duties;

(7)(A) "Crossgrade" means a temporary reclassification of a position during the fiscal year.

(B) The Office of Personnel Management may authorize a temporary change in the classification of a position from the classification authorized in an agency or institution appropriation act between legislative sessions to assure correct classification and for other purposes with the following restrictions:

(i) A position cannot be crossgraded to a classification having a grade higher than the grade originally authorized for the position by the General Assembly in the agency's or institution's appropriation act;

(ii) A position may be crossgraded to a classification having the same or lower grade than the position as originally authorized by the General Assembly in the agency's or institution's appropriation act;

(iii) Positions that have been crossgraded may be restored to the original authorized class during the fiscal year with the approval of the office for those positions within the same occupational group;

(iv) Position classifications may be crossgraded or restored to the original classification only after the review and approval by the office;

(v) Positions established under the career service compensation plan may not be crossgraded to professional and executive graded classifications and positions established under the professional and executive compensation plan may not be crossgraded to career service graded classifications; and

(vi) Positions having an authorized line item maximum salary by the General Assembly in the agency's or institution's appropriation act may not be crossgraded from line item status to classified status;

(8) "Demotion" means the change in duty assignment of an employee from a position in one classification to a position in another classification of a lower salary grade;

(9) "Employee" means a person regularly appointed or employed in a position of state service by a state agency or institution of higher education for which:

(A) He or she is compensated on a full-time basis or on a pro rata basis; and

(B) A class title and pay grade is established in the appropriation act for the agency or institution in accordance with the classification and compensation plan enacted in this subchapter;

(10) "Entry pay level" means the minimum entrance salary rate for classifications assigned to the career service compensation plan;

(11)(A) "Grade" means an authorized pay range having an entrance salary rate, intermediate rate, and a maximum rate of pay as provided in this subchapter.

(B) The determination of lower or higher grade in relation to another grade is determined by comparing the base rates of pay assigned to each grade;

(12) "Head of institution" means the executive head of an institution of higher education;

(13) "Institution of higher education" or "institution" means a public institution of higher education supported, in whole or in part, by appropriation of state funds;

(14)(A)(i) "Job sharing" means a form of employment in which the hours of work of two (2) or more persons are arranged in such a way as to cover a single, regular full-time position.

(ii) The Department of Finance and Administration may authorize job sharing for any regular full-time position.

(B) The Director of the Department of Finance and Administration or his or her designee shall promulgate necessary rules to carry out this subdivision (14);

(15) "Maximum pay level" means the highest authorized level of pay for a pay grade for normal compensation administration purposes;

(16) "Midpoint" means the rate of pay midway between the base pay level and the maximum pay level established for each grade;

(17)(A) "Occupational group" means a collection of classes having similar features of job components and sharing a primary function.

(B) In determining the occupational group to which a class is assigned, consideration will be given to the type of work to be performed, the type of education or experience required, job elements or tasks, and the purpose of the job;

(18) "Office of Personnel Management" or "office" means the Office of Personnel Management of the Division of Management Services of the Department of Finance and Administration acting under the authority granted in this subchapter and subject to the direction of the Director of the Department of Finance and Administration;

(19) "Pay level" means any single rate of pay in a grade including the entrance rate, intermediate rate, and the maximum rate of pay;

(20) "Position" means a single office or employment that is legislatively authorized in an agency or institution of higher education, occupied or vacant requiring the services of one (1) full-time equivalent employee;

(21) "Promotion" means the change in duty assignment of an employee from a position in one classification to a position in another classification of a higher salary grade;

(22)(A) "Reclassification" means a change in the assignment of a position from one classification title to another classification title of either a higher or lower salary grade when material and permanent changes in the duties and responsibilities of the position being recommended for reclassification have occurred or when it is necessary to establish a new classification title to meet federal standards as a prerequisite for federal programs.

(B) Positions eligible for reclassification within an agency or institution of higher education shall be only those positions assigned a specific classification title and salary grade.

(C) Positions having a line item maximum salary shall be considered exempt from the provisions in this section and may not be reclassified from line item status to a classified designation bearing a salary grade.

(D) Positions within an agency allocated to a specific classification title and salary grade may not be reclassified to a classification title having a maximum annual line item salary amount.

(E) Interim reclassifications approved by the Office of Personnel Management are to be implemented through the crossgrading of existing authorized positions within an agency or institution or through the acquisition of pool positions as authorized in § 21-5-225(a)(1); and

(23) "State agencies" means all agencies, authorities, departments, boards, commissions, bureaus, councils, or other agencies of the state supported by appropriation of state or federal funds, except those agencies excluded in § 21-5-204.

History. Acts 1969, No. 199, § 3; 1971, No. 750, § 1; 1973, No. 873, § 2; 1979, No. 828, § 1; 1981, No. 198, § 1; 1981, No. 650, § 1; 1985, No. 981, § 1; A.S.A. 1947, § 12-3203; Acts 1989, No. 793, § 2; 1991, No. 994, §§ 1-3; 1991, No. 1148, § 1; 1997, No. 179, § 33; 1999, No. 1019, § 1; 2001, No. 1461, §§ 1, 2; 2009, No. 688, § 4; 2011, No. 1017, § 1.

Amendments. The 2009 amendment deleted "Agency head" or at the beginning of (1); inserted (2) through (4), (7), (10), (15), and (16), deleted former (10) and (18), and redesignated accordingly; inserted "or 'classification'" in (5); deleted "requiring fewer qualifications such as

lower skill requirements, less job-related experience, and a lower level of responsibility" at the end of (8); subdivided (9) and inserted "or on a pro rata basis" in (9)(A); in (11), inserted "an authorized" in (11)(A) and inserted (11)(B); rewrote (14); inserted "or 'office'" in (18); rewrote (20); in (21), deleted "requiring higher qualifications, such as greater skill and longer experience, and involving a higher level of responsibility" at the end of (21), and deleted (21)(B); inserted (22)(E); and made related and minor stylistic changes.

The 2011 amendment inserted "or more" preceding "persons" in (14)(A)(i).

21-5-206. Legislative Council — Duties.

In order to assist the General Assembly in more efficiently performing its constitutional duty, that being "... the number and salaries of the clerks and employees of the different departments of the state shall be fixed by law.", the Legislative Council shall:

(1) Review the establishment and implementation of any new classification titles proposed between legislative sessions due to program changes;

(2) Review the staffing levels of all agencies and institutions covered by the provisions of this subchapter and submit to the General Assembly, when in regular session, fiscal session, or special session, recommendations for revisions, modifications, or additions thereto;

(3) Conduct, when necessary, salary surveys of the private and public sector of jobs comparable to those contained in § 21-5-208 for purposes

of establishing equitable and competitive rates of compensation for employees occupying positions affected by this subchapter;

(4) Periodically review and recommend any changes found necessary in the job evaluation system used to set salary grade levels for all classifications affected by the provisions of this section and forward the recommendations to the Office of Personnel Management of the Management Division of the Department of Finance and Administration; and

(5) Prepare and submit recommendations for revisions in this subchapter to the General Assembly when in session.

History. Acts 1985, No. 981, § 8; A.S.A. 1947, § 12-3212; Acts 1989, No. 793, § 5; 2009, No. 962, § 40.

Amendments. The 2009 amendment inserted "session, fiscal session" following "regular" in (2).

21-5-207. Office of Personnel Management — Duties.

(a) It shall be the duty of the Office of Personnel Management to perform the following administrative responsibilities with respect to the state classification and compensation plan, subject to this subchapter:

(1) To determine that each position of a state agency or institution of higher education affected by this subchapter is allocated to a class having a written class specification based on the duties and responsibilities assigned to the position and the requirements necessary to satisfactorily perform the duties;

(2) To assist the various state agencies or institutions of higher education in the allocation of positions to classes established in this subchapter and in the appropriation acts covering each of the several state agencies or institutions affected by this subchapter, and to disallow the allocation of a position to a class that is not in conformance with this subchapter;

(3) To cooperate with any other state agency, department, board, commission, or institution that is not covered by this subchapter which may wish to voluntarily establish its positions into classifications in a like manner as provided in this subchapter for state agencies or institutions of higher education covered by it;

(4)(A) To authorize the temporary reclassification of positions in a state agency or institution affected by this subchapter in cases in which it has been determined by the office that there are material changes in the duties and responsibilities assigned to the position when there is no available vacant position having the proper classification and where it is impracticable to restructure the duties of the position to the proper classification.

(B) The reclassification of positions may also be authorized when it is necessary to establish a new classification to meet federal standards as a prerequisite for federal programs, provided that no position may be reclassified to a class with a higher salary grade than that approved by the General Assembly, and the reclassified positions

shall not be placed in a class and receive pay at a salary rate in excess of the maximum salary rate authorized for the position that was reclassified as provided in the appropriation act of the agency or institution;

(5)(A) To review all class specifications and all classes and grades and the compensation plan affecting all state agencies and institutions covered by this subchapter and to submit to the Legislative Council and the Governor in advance of the general session and fiscal session of the General Assembly recommendations for revisions, modifications, or additions.

(B) When necessary, the office shall confer with the staff of the Legislative Council on the development of and revisions to uniform classification and compensation systems.

(C) Time periods for the development of recommendations and time periods for the review by the Legislative Council of those recommendations shall be as established by the Personnel Subcommittee of the Legislative Council.

(D) The time period shall be sufficiently in advance of budget hearings for the general session and fiscal session to allow for the thorough review by the Personnel Subcommittee of the Legislative Council;

(6) To develop and implement rules to accomplish the purposes of this subchapter;

(7)(A) To establish a procedure to allow for the review of the qualifications of applicants whose education and experience do not meet or exceed that required by the class specification but who have other job-related qualifications which might be validly substituted for the class requirements.

(B) This procedure is intended to allow agencies or institutions to substitute job-related education and experience for the specific requirements stated on the class specification without the necessity for the revision of the class requirements.

(C) The procedure shall require the final approval of the Personnel Director, with the review of the Personnel Subcommittee of the Legislative Council;

(8)(A) To monitor agency and institution personnel transactions to ensure that unqualified appointments, including new employees, promotions, and reductions in grade are identified.

(B) Unqualified appointments shall be reported by the office to the Personnel Subcommittee of the Legislative Council unless one (1) of the following actions is taken:

(i) Questionable appointments were forwarded by the office to the Personnel Director for further review;

(ii) Payroll actions for questionable appointments that are determined by the Personnel Director to be unqualified for the specific appointment are not processed until the unqualified appointment is removed from the payroll or is placed into a position in the agency for which the individual meets the minimum qualifications of the classification; or

(iii) Corrective action has been documented by the agency or institution.

(C) It is the specific responsibility of the director of each agency or the head of each institution covered by this subchapter to certify that the qualifications of persons appointed to positions within the agency or institution do meet or exceed the minimum education and experience requirements as stated on the class specification;

(9)(A) To establish each year, upon the review of the Personnel Subcommittee of the Legislative Council, new classifications at an appropriate grade level in order to meet new or changed conditions and to report at the end of each fiscal year all class titles contained in § 21-5-208 for which a class specification has not been written.

(B) Any classification established under this subdivision (9) shall remain in effect for the remainder of the fiscal year during which it was established unless specifically authorized to continue by the General Assembly as an addition to this subchapter;

(10) To revise, as necessary, the class specification of a classification in order to ensure the accuracy of the description of the assigned duties and the minimum requirements necessary to perform these duties to maintain a valid relationship between the requirements and the duties and responsibilities of the jobs;

(11) To administer and maintain a system for the evaluation of employee performance effectiveness;

(12) To provide assistance to state agencies and institutions in identifying, developing, and maintaining training and resource programs; and

(13) To develop and implement, as needed, upon the review of the Personnel Subcommittee of the Legislative Council, rules to ensure a uniform system of personnel administration within state government.

(b) In order to ensure and provide for the accuracy and efficiency of this subchapter and to provide for an efficient and equitable system of personnel management, the office, with the review of the Personnel Subcommittee of the Legislative Council, is directed to:

(1) Study on a continuing basis and modify and revise when necessary the current classifications, the class specifications, minimum requirements, and other requirements;

(2) Create when necessary new classifications at an appropriate grade level that will accurately describe those positions for which no appropriate classification exists;

(3) Determine those positions that are improperly classified and reclassify those positions to the appropriate classification subject to this subchapter; and

(4) Develop and implement the policies, rules, and procedures necessary for the establishment and maintenance of this subchapter.

History. Acts 1969, No. 199, § 6; 1973, 1985, No. 981, § 3; A.S.A. 1947, §§ 12-No. 873, §§ 1, 5, 6; 1975, No. 932, § 3; 3206, 12-3206.1; Acts 1989, No. 793, § 6; 1979, No. 828, § 3; 1981, No. 650, § 3; 1991, No. 1148, § 2; 2005, No. 1962, § 98; 1981, No. 695, § 3; 1983, No. 931, § 3; 2009, No. 688, § 5.

Amendments. The 2009 amendment, in (a), deleted “of the Management Division of the Department of Finance and Administration” following “Management” in the introductory language, inserted “temporary” in (a)(4)(A), deleted “of higher education” following “institution” in (a)(4)(A) and (a)(5)(A), deleted (a)(4)(C) and (a)(7), inserted “Personnel Committee of the” in present (a)(7)(C), rewrote (a)(8), substituted “each year” for “during the biennium” in (a)(9)(A), deleted “within the biennium” following “established” and substituted “fiscal year” for “biennium” in

(a)(9)(B), deleted “with the review of the Legislative Council” following “as necessary” and inserted to maintain a valid relationship between the requirements and the duties and responsibilities of the jobs” in (a)(10), and substituted “Personnel Committee” for “Legislative Council” in (a)(13) and the introductory language of (b); substituted “minimum requirements, and other requirements” for “and minimum requirements” in (b)(1), and deleted “regulations” following “rules” in (b)(4); and made related and minor stylistic changes.

21-5-208. Classification of positions.

- (a)(1) There are established for state agencies and institutions covered by this subchapter the following classification titles and grades.
- (2) No payment of salaries may be made except in conformity with the maximum annual salary rates assigned to these grades for each year as provided in the appropriation act of the state agency or the institution and in this subchapter.
- (b) The following classification titles with grades indicated are approved for the state classification plan, subject to the appropriation acts for the various state agencies and various institutions affected by this subchapter:

Class Code	Title	Grade
L001N	CRIME LAB DIR MEDICAL EXAMINATION DIV	N922
L003N	CHIEF PHYSICIAN SPECIALIST	N921
L002N	DEPUTY STATE HEALTH OFFICER	N921
L004N	CRIME LAB ASSOC MEDICAL EXAMINER	N920
L025N	SENIOR PHYSICIAN SPECIALIST	N920
L024N	DDSSA MEDICAL SPECIALIST	N919
L005N	PSYCHIATRIC SPECIALIST	N919
N001N	DIRECTOR OF PHARMACY BOARD	N918
L007N	REHAB MED DIR ALCOHOL REHAB CTR-BENTON	N918
L009N	DHS BEHAV HLTH GENERAL PHYSICIAN	N917
L008N	PHYSICIAN SPECIALIST	N917
B017N	ADH CHIEF SCIENTIST	N916
L012N	DDSSA MEDICAL CONSULTANT	N916
L011N	DENTIST	N916
L013N	GENERAL PHYSICIAN	N916
L023N	DHS DEPUTY DIRECTOR	N915
L015N	ASST PHARMACY DIRECTOR	N914

L014N	DIRECTOR OF PHARMACY	N914
N002N	DHE SENIOR ASSOC DIRECTOR	N913
N005N	ADE ASST COMMISSIONER LEARNING SERVICES	N912
N006N	ADE ASST COMMISSIONER PUB SCH ACCOUNT	N912
G001N	ADE LITIGATION ATTORNEY	N912
N007N	ADH DEPUTY DIRECTOR ADMIN	N912
B001N	ADH SENIOR SCIENTIST	N912
N009N	ASST COMMISSIONER FISCAL & ADMIN SVCS	N912
N010N	ASST COMMISSIONER HUMAN RESOURCES	N912
N008N	ASST COMMISSIONER RESEARCH & TECHNOLOGY	N912
N012N	DFA ADMINISTRATOR FOR FISCAL & BUDGET	N912
N011N	DFA CHIEF INFORMATION OFFICER	N912
N003N	DFA REV ASST COMMISSIONER OPS & ADMIN	N912
N004N	DFA REV ASST COMMISSIONER POLICY & LEGAL	N912
N013N	DIS CHIEF OPERATING OFFICER	N912
N014N	INSURANCE DEP COMMISS FINANCIAL REGS	N912
N015N	ADE DIR PUBLIC SCHOOL FACILITIES & TRANS	N911
N016N	DHS DEP DIR ADMINISTRATIVE SVCS	N911
L016N	REGISTERED PHARMACIST	N911
D001N	STATE APPLICATION DIVISION DIRECTOR	N911
N017N	ADH CHIEF INFORMATION OFFICER	N910
N020N	DHS DDS COMMISSIONER	N910
N019N	DHS DEP DIR BEHAV HLTH SERVICES	N910
N018N	DHS DEP DIR COUNTY OPERATIONS	N910
N022N	DHS DEP DIR MEDICAL SERVICES	N910
N021N	DHS DEPUTY DIRECTOR — DCFS	N910
N024N	DIRECTOR STUDENT LOAN AUTHORITY	N910
N023N	INSURANCE DEPUTY COMMISSIONER	N910
N025N	INSURANCE DEPUTY COMMISSIONER INFO SVCS	N910
A003N	SENIOR INVESTMENT ANALYST	N910
N039N	ADC DEPUTY DIRECTOR	N909
N038N	DFA ACCOUNTING ADMINISTRATOR	N909
N033N	DFA ADMINISTRATIVE SVCS ADMINISTRATOR	N909

N037N	DFA DRIVER LICENSE ADMINISTRATOR	N909
N036N	DFA EBD ADMINISTRATOR	N909
D004N	DFA IGS/STATE TECHNOLOGY ADMINISTRA- TOR	N909
N035N	DFA MOTOR VEHICLE ADMINISTRATOR	N909
N034N	DFA OCSE ADMINISTRATOR	N909
G002N	DFA REVENUE CHIEF COUNSEL	N909
N032N	DFA STATE PERSONNEL ADMINISTRATOR	N909
N031N	DFA STATE PROCUREMENT ADMINISTRA- TOR	N909
N030N	DFA STATE REVENUE OFFICE ADMINISTRA- TOR	N909
N029N	DFA TAX ADMINISTRATOR	N909
N028N	DFA TAX AUDIT ADMINISTRATOR	N909
N042N	DFA TAX RESEARCH ADMINISTRATOR	N909
N041N	DHE ASSOC DIR FOR ACADEMIC AFFAIRS	N909
N040N	DHS CHIEF INFORMATION OFFICER	N909
N027N	DHS DEPUTY DIRECTOR ADULT SERVICES	N909
N026N	DHS DEPUTY DIRECTOR OF DYS	N909
N045N	DIRECTOR OF POULTRY DISEASES	N909
N044N	DIS CUST RELATIONS MGMT ADMR	N909
G003N	PSC CHIEF ADMIN LAW JUDGE	N909
N043N	PSC DIRECTOR OF FINANCIAL ANALYSIS	N909
D003N	STATE CHIEF SECURITY OFFICER	N909
D002N	STATE DATABASE ADMINISTRATOR LEAD	N909
B003N	ABA STATE ARCHITECT	N908
B002N	ABA STATE ENGINEER	N908
N048N	ADC ASSISTANT DIRECTOR	N908
N047N	ADE APSCN DIRECTOR	N908
N046N	ADE ASST DIR ACADEMIC FACILITIES	N908
N069N	ADE SPECIAL ADVISOR	N908
N068N	ADE SPECIAL ASSISTANT TO COMMIS- SIONER	N908
N067N	ADEQ DEPUTY DIRECTOR — LAND RE- SOURCES	N908
N066N	ADFA DEPUTY DIRECTOR	N908
N065N	ADH CENTER DIRECTOR-HEALTH PROTEC- TION	N908
N064N	ADH CENTER DIR-LOCAL PUBLIC HEALTH	N908
N063N	ADH EPIDEMIOLOGY OFFICER	N908
N062N	AEDC BUSINESS DEV DIV DIR	N908
N061N	AEDC BUSINESS FINANCE DIRECTOR	N908
N059N	AEDC TRAINING DIVISION DIRECTOR	N908
N056N	AGRI COORDINATOR OF LABORATORY	N908

N057N	ASP DEPUTY DIRECTOR/LT. COLONEL	N908
N058N	DEPUTY DIRECTOR OF ARLPC	N908
D005N	DFA IT TECHNICAL SPECIALIST	N908
N055N	DHE ASSOCIATE DIRECTOR	N908
N054N	DHE CAREER PATHWAYS DIRECTOR	N908
N053N	DHS ASH CHIEF EXECUTIVE OFFICER	N908
G004N	DHS CHIEF ATTORNEY	N908
N052N	DHS EXEC DIR EARLY CHILDHOOD COMM	N908
G015N	DWS ASSISTANT DIRECTOR	N908
N051N	DWS ASST DIR, EMPLOYMENT ASSIST	N908
N050N	DWS ASST DIR, FINANCIAL MANAGEMENT	N908
N049N	DWS ASST DIR, INFO AND TECHNOLOGY	N908
N074N	DWS ASST DIR, UNEMPLOYMENT INS	N908
N075N	DWS DEP ASST DIR EMPLOYMENT ASSIS- TANCE	N908
G007N	DWS GENERAL COUNSEL	N908
N174N	HEALTH INFORMATION TECH POLICY DI- RECTOR	N908
N073N	INSURANCE CHF FIN/MKT CONDUCT EXMR	N908
G006N	PSC CHIEF COUNSEL	N908
N072N	PSC DIRECTOR RESEARCH & POLICY	N908
N071N	PSC TAX DIVISION DIRECTOR	N908
B004N	STATE VETERINARIAN	N908
N070N	WCC ASST CHIEF EXECUTIVE OFFICER	N908
G005N	WCC CHIEF ADMIN LAW JUDGE	N908
N077N	ADPT CENTRAL ADMIN DIV DIR	N907
N085N	AEDC DIR TECH & ENTREPRENEURSHIP	N907
N084N	AEDC MRKT & COMMUNICATIONS DIR	N907
N083N	AEDC STRATEGIC PLANNING DIRECTOR	N907
B006N	ARLPC BOARD CERTIFIED PATHOLOGIST	N907
A006N	ATRS INTERNAL AUDITOR	N907
G008N	CHIEF PUBLIC DEFENDER	N907
N082N	DFA INTERNAL AUDIT ADMINISTRATOR	N907
N175N	DHS — DDS ASSISTANT DIRECTOR OF RES SVCS	N907
N081N	DHS DDS SUPT HDC/CONWAY	N907
N080N	DHS/DMS ASSISTANT DIRECTOR — FISCAL	N907
N079N	DIS DIVISION DIRECTOR	N907
N078N	DIS PROJECT & ENTERPRISE PROG MGMT ADMIN	N907
N076N	PSC DIRECTOR OF QUALITY SERVICES	N907
D007N	STATE GEOGRAPHIC INFO OFFICER	N907
D006N	STATE SYSTEMS ARCHITECT	N907
B005N	VETERINARIAN	N907

D009N	AASIS SYSTEM ADMINISTRATOR	N906
N172N	ACE REHAB OPERATIONS DIRECTOR	N906
T001N	ADC SUPERINTENDENT	N906
N097N	ADH CHIEF FINANCIAL OFFICER	N906
G009N	ADH CHIEF LEGAL COUNSEL	N906
B007N	AETN ENGINEERING DIVISION MANAGER	N906
N096N	APERS ASST DIRECTOR OF FINANCE	N906
N095N	ARKANSAS BUREAU OF STANDARDS DIRECTOR	N906
A005N	ASST DEPUTY BANK COMMISSIONER	N906
N094N	ASTA EPSCOR DIRECTOR	N906
N093N	ATRS ASSOCIATE DIRECTOR FISCAL AFFAIRS	N906
N092N	ATRS ASSOCIATE DIRECTOR OF OPERATIONS	N906
A004N	CERTIFIED FINANCIAL EXAMINER MANAGER	N906
N090N	CONTRACTORS LICENSE ADMR/INVEST	N906
N089N	DFA DIRECTOR ABC ADMINISTRATION	N906
D008N	DFA PBAS TECHNICAL SUPPORT MANAGER	N906
N088N	DHS AHC DIRECTOR OF NURSING	N906
N087N	DHS BEHAV HLTH DIR HOSPITAL OPS	N906
N086N	DHS DDS DIR EVAL PLAN & MGMT SYSTEMS	N906
N103N	DHS MENTAL HEALTH CENTER DIRECTOR	N906
N102N	DHS/DCO ASSISTANT DIRECTOR	N906
N101N	DHS/DCO ASST DEP DIR PGM & ADMN SPT	N906
N099N	DHS/DMS ADD — LONG-TERM CARE	N906
N100N	DHS/DMS ADD — MEDICAL SERVICES	N906
N098N	HSRC DIRECTOR OF PHYSICAL THERAPY	N906
G011N	PSC ADMINISTRATIVE LAW JUDGE	N906
G010N	WCC ADMINISTRATIVE LAW JUDGE	N906
E003N	ADE COORD SCH. IMP / STANDARDS ASSURANCE	N905
E002N	ADE COORDINATOR OF SPECIAL PROJECTS	N905
E001N	ADE COORDINATOR SPECIAL PROGRAMS	N905
R001N	ADH CHIEF HUMAN RESOURCES OFFICER	N905
N104N	ADH DIRECTOR STATISTICS & VITAL RECORDS	N905
G013N	ASBN GENERAL COUNSEL	N905
N113N	ATC DIRECTOR	N905
B009N	DFA DOG RACING VETERINARIAN	N905
L017N	DHS ALEXANDER CHIEF PSYCHOLOGIST	N905
N112N	DHS ASST DEP DIR FIN SUPPORT SYSTEM	N905

N111N	DHS ASST DEP DIR FOR MGR ACCOUNTING	N905
N110N	DHS ASST DIR CONTRACT MONITORING UNIT	N905
N108N	DHS/DCO ASST DEP DIR	N905
N107N	DHS/OFA ASSISTANT DIR — ACCOUNTING OPS	N905
N109N	DHS/OFA ASSISTANT DIRECTOR	N905
G028N	JDDC DEPUTY EXEC DIRECTOR	N905
N106N	PRIVATE CAREER EDUCATION BOARD DI- RECTOR	N905
G012N	PUBLIC DEFENDER III	N905
B008N	SENIOR PETROLEUM ENGINEER	N905
N105N	STADIUM COMMISSION EXECUTIVE DIREC- TOR	N905
G014N	ADC COMPLIANCE ATTORNEY	N904
N120N	ADC FARM ADMINISTRATOR	N904
N119N	ADC INDUSTRY ADMINISTRATOR	N904
P001N	ADE DIR OF COMMUNICATIONS	N904
B011N	ADH DIR ENGINEERING	N904
N118N	ADH DIR IN-HOME SERVICES	N904
G009C	AFHC DIRECTOR	N904
N117N	BD OF ACCT EXECUTIVE DIRECTOR	N904
N116N	BOARD OF ARCHITECTS EXECUTIVE DI- RECTOR	N904
N115N	CRIMINAL INSURANCE FRAUD DIRECTOR	N904
N130N	DCC DEPUTY DIR ADMINISTRATIVE SER- VICES	N904
N129N	DCC DEPUTY DIR PAROLE/PROBATION SER- VICES	N904
N114N	DCC DEPUTY DIR RESIDENTIAL SVCS	N904
N128N	DHS ASST DIR QUALITY ASSURANCE	N904
N126N	DHS DDS SUPT HDC	N904
N125N	DHS DEP DIR SVCS FOR THE BLIND	N904
R002N	DHS DIRECTOR OF HUMAN RESOURCES	N904
N123N	DHS/DBHS ASST DIR FOR FINANCE	N904
N127N	DHS/DBHS DIR ALCOHOL & DRUG ABUSE PREV	N904
N122N	DHS/DCC ASSISTANT DIR FINANCE & AD- MIN	N904
N121N	DHS/DCFS DEPUTY DIRECTOR	N904
N124N	DHS/DYS ASSISTANT DIVISION DIRECTOR	N904
G018N	DIRECTOR RISK MANAGEMENT	N904
G017N	DWS ASST DIR — TANF	N904
G016N	DWS ASST DIR GRANTS RESOURCE ADMIN	N904

D010N	INSURANCE CHIEF TECHNOLOGY OFFICER	N904
L018N	NURSE PRACTITIONER	N904
G019N	PAROLE BOARD MEMBER	N904
B010N	VETERINARY VIROLOGIST	N904
N136N	ADC HEALTH SERVICE ADMINISTRATOR	N903
L019N	ADH CHIEF EPIDEMIOLOGIST	N903
P002N	ADH DIRECTOR OF COMMUNICATIONS	N903
G020N	AGFC GENERAL COUNSEL	N903
B012N	ASTA ASSISTANT DIRECTOR OF ENGINEERING	N903
N135N	DHS AHC NURSING HOME ADMINISTRATOR	N903
N134N	DHS/DCFS ASSISTANT DIRECTOR	N903
N133N	DIRECTOR MINORITY HEALTH COMMISSION	N903
N173N	ENERGY OFFICE DEPUTY DIRECTOR	N903
N132N	ENG & LAND SURVEYORS EXEC DIRECTOR	N903
N131N	SBEC DIRECTOR	N903
A001N	STUDENT LOAN CHIEF FINANCIAL OFFICER	N903
G024N	ADC GENERAL COUNSEL	N902
N149N	ADE COORD FISCAL DISTRESS	N902
N148N	ADH GOVERNMENTAL AFFAIRS POLICY DIR	N902
B013N	ASST STATE GEOLOGIST	N902
X001N	BD OF COLLECTION EXEC DIR	N902
N146N	BOARD OF APPRAISER EXECUTIVE DIRECTOR	N902
N145N	DHS ASSISTANT DIRECTOR CMS	N902
N144N	DHS DDS DIR CLIENT SERVICES	N902
N143N	DHS DDS DIVISION MANAGER	N902
N171N	DHS DEP DIR DCSNS	N902
N147N	DHS/DAAS ASST DEP DIR	N902
N142N	DHS/DAAS DEPUTY DIRECTOR	N902
N141N	DHS/DCO AREA DIRECTOR	N902
N140N	INS ASST DEP COMMISSIONER FINANCE	N902
N139N	MINORITY HLTH & HLTH DISPARITIES DIR	N902
G023N	PAROLE BOARD HEARING EXAMINER	N902
G022N	PUBLIC DEFENDER II	N902
N170N	REHAB DIRECTOR — ACTI	N902
N138N	REHAB DIRECTOR FIELD SVCS	N902
N137N	SECURITIES DEPUTY COMMISSIONER	N902
N150N	TECHNICAL INSTITUTE DIRECTOR	N902
P003N	ADC PUBLIC INFORMATION OFFICER	N901
N163N	ADPT TOURISM ADMIN DIRECTOR	N901

N159N	APERS INVESTMENT OPERATIONS MAN- AGER	N901
N158N	ASBN ASSISTANT DIRECTOR	N901
G026N	ASTA ASSISTANT DIRECTOR MGMT SVS	N901
A002N	ASTA ASSISTANT DIRECTOR OF FINANCE	N901
B015N	ASTA ASSISTANT DIRECTOR OF RESEARCH	N901
N157N	ATRS ASSOCIATE DIRECTOR OF INVEST- MENTS	N901
N156N	BEHAV HLTH ASST DIR CHILDRENS SVS	N901
N155N	CAPITOL ZONING DISTRICT ADMINISTRA- TOR	N901
N154N	CLAIMS COMMISSION DIRECTOR	N901
N166N	DFA DIRECTOR ABC ENFORCEMENT	N901
N168N	DHS DIR HOME & COMMUNITY BASED SVCS	N901
P004N	DHS DIRECTOR OF PUBLIC RELATIONS	N901
N167N	DHS POLICY & RESEARCH DIRECTOR	N901
G027N	DHS RESEARCH ANALYSIS MANAGER	N901
N152N	DHS/DBHS ASSISTANT DIR ADMIN SVCS	N901
N153N	DHS/DBHS CLINICAL DIRECTOR	N901
N151N	DHS/DCF'S ADMR ADMIN SERVICES	N901
M028C	EXECUTIVE DIRECTOR COUNSELING BD	N901
B016N	LAND SURVEY STATE SURVEYOR	N901
N165N	LP GAS BOARD DIRECTOR	N901
N164N	MILITARY DEPUTY ADJUTANT GENERAL	N901
N169N	MOTOR VEHICLE COMMISSION DIRECTOR	N901
L022N	OCCUPATIONAL THERAPIST	N901
L021N	PHYSICAL THERAPIST	N901
G025N	PUBLIC DEFENDER I	N901
B014N	SENIOR PETROLEUM GEOLOGIST	N901
L020N	SPECIALIZED LICENSED PROF COUNSELOR	N901
N162N	STATE DRUG PREVENTION DIRECTOR	N901
N161N	STATE LIBRARY DEPUTY DIRECTOR	N901
N160N	TEACHER HOUSING DEVELOP CMSN DIR	N901
A108C	ADC ASST CHIEF FINANCIAL OFFICER(CFO)	C130
D093C	AGFC CHIEF INFORMATION OFFICER	C130
G003C	ANRC DEPUTY DIRECTOR	C130
T001C	ASP MAJOR	C130
X003C	ASP/CACD CHIEF ADMINISTRATOR	C130
A018C	BANK CHIEF EXAMINER	C130
A004C	CERTIFIED FINANCIAL EXAMINER	C130
B001C	DEPUTY STATE FORESTER	C130
A002C	DFA ASSISTANT ACCOUNTING ADMINIS- TRATOR	C130

G001C	DFA ASSISTANT ADMIN SVCS ADMINISTRATOR	C130
R002C	DFA ASSISTANT BUDGET ADMINISTRATOR	C130
R003C	DFA ASSISTANT EBD ADMINISTRATOR	C130
G002C	DFA ASSISTANT IGS ADMINISTRATOR	C130
R001C	DFA ASSISTANT PERSONNEL ADMINISTRATOR	C130
V001C	DFA ASSISTANT PROCUREMENT ADMINISTRATOR	C130
A001C	DFA ASSISTANT TAX RESEARCH ADMINISTRATOR	C130
D002C	DFA OIS ASSISTANT ADMINISTRATOR	C130
A003C	DFA REVENUE ASSISTANT ADMINISTRATOR	C130
X002C	INSURANCE PUBLIC EMP CLAIMS DIV DIR	C130
X001C	PSC DIR OF ELECTRIC UTILITIES SECT	C130
D001C	STATE DATABASE ADMINISTRATOR	C130
G012C	ADE ASSISTANT TO COMMISSIONER	C129
G231C	ADE DIRECTOR OF CHILD NUTRITION	C129
A008C	ADE FINANCE DIVISION MANAGER	C129
G006C	ADE SPECIAL EDUCATION DIVISION MANAGER	C129
X004C	ADEQ AIR DIVISION MANAGER	C129
G005C	ADEQ WATER DIVISION MANAGER	C129
T002C	AGFC COLONEL	C129
B003C	AGFC DIVISION CHIEF	C129
B002C	AGRI DIRECTOR OF MARKETING	C129
A007C	AUDIT MANAGER	C129
G234C	DDSSA PROGRAM DIRECTOR	C129
A006C	DFA REVENUE TAX DIVISION MANAGER	C129
R004C	DFA STATE PAYROLL SYSTEMS MANAGER	C129
G101C	DHS AREA MANAGER	C129
A005C	DIR OF COST ALLOCATION & RATE DESIGN	C129
E060C	ED ASSOCIATE DIR CHILD NUTRITION	C129
G004C	MANAGING ATTORNEY	C129
L001C	PSYCHOLOGIST SUPERVISOR	C129
D003C	STATE SYSTEMS ADMINISTRATOR LEAD	C129
G010C	ACE DIVISION MANAGER	C128
L097C	ADC PSYCHOLOGIST	C128
G013C	AEDC DIR ARKANSAS ENERGY OFFICE	C128
G016C	AEDC DIR BUSINESS RETENTION & EXPAN	C128
G014C	AEDC DIR OF COMMUNITY DEVELOPMENT	C128
P002C	AEDC DIRECTOR FILM COMMISSION	C128
G015C	AEDC SMALL/MINORITY BUSINESS DIRECTOR	C128

A011C	AETN DEP DIR FOR ADMIN & FINANCE	C128
E003C	AETN EDUCATION DIVISION DIRECTOR	C128
E002C	AETN OUTREACH DIVISION DIRECTOR	C128
P001C	AETN PRODUCTION DIVISION DIRECTOR	C128
E001C	AETN PROGRAMMING DIVISION DIRECTOR	C128
A010C	AGENCY CONTROLLER II	C128
B006C	ANRC CONSERVATION DIVISION CHIEF	C128
B005C	ANRC WATER DEVELOPMENT DIVISION MANAGER	C128
B004C	ANRC WATER RESOURCES DIVISION MAN- AGER	C128
T003C	ASP CAPTAIN	C128
A030C	CERTIFIED EXAMINER MANAGER	C128
B007C	CRIME LAB SCIENTIFIC OPERATION MGR	C128
D010C	DATA WAREHOUSE LEAD	C128
T004C	DCC PROGRAM ADMR PAROLE & PROBA- TION SVCS	C128
M001C	DCC TREATMENT ADMINISTRATOR	C128
A009C	DFA ACCOUNTING DIVISION MANAGER	C128
G225C	DFA OCSE FIELD OPERATIONS MANAGER	C128
R005C	DFA STATE BUDGET MANAGER	C128
G011C	DHE ACADEMIC AFFAIRS MANAGER	C128
D009C	DIS OPERATIONS CENTER MANAGER	C128
B008C	ENG & LAND SURVEYORS PROF ENGINEER	C128
D008C	GIS LEAD	C128
G241C	HEALTH INFO TECH OPER & TECH OF- FICER	C128
D007C	INFORMATION SYSTEMS MANAGER	C128
L002C	NURSING DIRECTOR	C128
X005C	PROPERTY & CASUALTY MANAGER	C128
G008C	RISK MANAGEMENT ASSISTANT DIRECTOR	C128
D006C	SOFTWARE ENGINEER LEAD	C128
D005C	STATE IT SECURITY ANALYST	C128
D004C	STATE NETWORK SUPPORT LEAD	C128
G007C	WCC DIVISION MANAGER	C128
G036C	ABA DIVISION MANAGER	C127
T006C	ADC HEAD FARM MANAGER II	C127
T005C	ADC/DCC CORRECTIONAL WARDEN	C127
G035C	ADEQ ADMINISTRATION DIVISION MAN- AGER	C127
G034C	ADEQ ASST AIR/WATER DIVISION MANAGER	C127
B012C	ADEQ ENGINEER P.E. BRANCH MANAGER	C127
G033C	ADEQ HAZARDOUS WASTE DIVISION MAN- AGER	C127

G032C	ADEQ MINING DIVISION MANAGER	C127
G031C	ADEQ PUBLIC OUTREACH DIVISION MAN- AGER	C127
G030C	ADEQ REGULATED STORAGE TANKS DIV MANAGER	C127
G029C	ADEQ SOLID WASTE DIVISION MANAGER	C127
G028C	ADEQ TECHNICAL SERVICES DIVISION MANAGER	C127
G027C	ADFA PROGRAM OFFICER	C127
G026C	ADH ASSOC CENTER DIR-MGMT & OPS	C127
B011C	ADH CHIEF ENGINEER	C127
G018C	ADPT PARKS ADMIN MANAGER	C127
S001C	ADPT PARKS OPERATIONS MGR	C127
G037C	ADPT PARKS PLANNING & DEV MGR	C127
B010C	AGRI DIVISION MANAGER	C127
G239C	ASLA PROGRAM OFFICER	C127
G025C	ATTORNEY SUPERVISOR	C127
D013C	BANK IT ADMINISTRATOR	C127
D012C	DATABASE SPECIALIST	C127
G024C	DEPARTMENT ADMINISTRATIVE LAW JUDGE	C127
G023C	DEPUTY PROSECUTOR COORDINATOR	C127
A017C	DFA CAFR ACCOUNTING MANAGER	C127
D011C	DFA ERP SYSTEM MANAGER	C127
M002C	DHS BEHAV HLTH ASSOC DIR, AHC	C127
M003C	DHS BEHAV HLTH CHILDRENS SYSTEM CARE DIR	C127
G022C	DHS DIRECTOR OF EMERGENCY OPERA- TIONS	C127
A016C	DHS DMS BUSINESS OPERATIONS MAN- AGER	C127
G021C	DHS/DSB ASSISTANT DIRECTOR	C127
X007C	DHS/DYS ADMIN PROG COMPLIANCE	C127
B009C	DIRECTOR WATERWAYS COMMISSION	C127
A015C	DWS DIR INTERNAL AUDIT & SECURITY	C127
G020C	DWS PROGRAM ADMINISTRATOR	C127
A014C	FISCAL DIVISION MANAGER	C127
G019C	GENERAL COUNSEL	C127
G017C	PLANT BOARD ASSISTANT DIRECTOR	C127
A013C	PSC DIRECTOR OF REVENUE REQUIRE- MENTS	C127
L003C	PSYCHOLOGIST	C127
G052C	ACIC DIVISION MANAGER	C126

G051C	ADE ACADEMIC FACILITIES SR PROJECT ADMIN	C126
G050C	ADE APSCN DIVISION MANAGER	C126
E059C	ADE COORDINATOR OF NUTRITION SERVICES	C126
E007C	ADE OERZ DIRECTOR	C126
G055C	ADEM DEPUTY DIRECTOR	C126
L095C	ADH HOSPITAL & REGULATORY MANAGER	C126
G049C	ADH REGIONAL DIRECTOR	C126
L094C	ADH TRAUMA SYSTEM MANAGER	C126
G038C	ADVA ASSISTANT DIRECTOR	C126
G048C	AEDC STRATEGIC PLANNING ASST DIR	C126
S002C	AETN OPERATIONS DIVISION DIRECTOR	C126
A021C	AGENCY CONTROLLER I	C126
B121C	AGFC DIVISION ASST CHIEF	C126
T008C	AGFC MAJOR	C126
B017C	AGFC REAL ESTATE AND ENGINEER MANAGER	C126
G054C	AREC DEPUTY EXECUTIVE DIRECTOR	C126
L007C	ASBN PROGRAM COORDINATOR	C126
A020C	ASD/ASB BUSINESS MANAGER	C126
C002C	ASP HIGHWAY SAFETY OFFICE ADMINISTRATOR	C126
T007C	ASP LIEUTENANT	C126
T009C	ASP SPECIAL OPERATIONS ADMINISTRATOR	C126
X011C	ASP/CACD INVESTIGATOR ADMINISTRATOR	C126
L006C	ASSOCIATE DIRECTOR OF NURSING	C126
B014C	ASST STATE FORESTER	C126
B016C	ASTA ASSISTANT DIRECTOR EPSCOR	C126
G041C	ATRS MEMBER SERVICES ADMINISTRATOR	C126
G047C	ATTORNEY SPECIALIST	C126
A039C	CERTIFIED BANK SENIOR EXAMINER	C126
P003C	DAH AGENCY DIRECTOR	C126
G046C	DCC PLANNING & MGMT SVCS ADMINISTRATOR	C126
G053C	DDSSA ASSISTANT DIRECTOR	C126
G045C	DFA DIVISION MANAGER III	C126
G228C	DFA RACING COMMISSION MANAGER	C126
G044C	DFA REVENUE PROBLEM RESOLUTION OFFICER	C126
R007C	DFA STATE OPM MANAGER	C126
G043C	DHE FINANCIAL AID MANAGER	C126
G042C	DHS ADMINISTRATIVE LAW JUDGE	C126

D018C	DIS INFORMATION SYSTEMS COORD	C126
B015C	ENGINEER SUPERVISOR	C126
L005C	HSRC MEDICAL SERVICES MANAGER	C126
R006C	HUMAN RESOURCES ADMINISTRATOR	C126
D017C	INFORMATION SYSTEMS SECURITY SPECIALIST	C126
X009C	INSURANCE DEPT DIR OF SECURITY OPS	C126
B013C	PETROLEUM ENGINEER	C126
A019C	PSC TAX DIVISION ASSISTANT DIRECTOR	C126
E006C	PUBLIC SCHOOL PROGRAM MANAGER	C126
L004C	REHAB DIRECTOR — PROG, PLAN, DEV & EVAL	C126
G040C	REHAB DIRECTOR — SPECIAL PROGRAMS	C126
E005C	REHAB DIRECTOR OF VOCATIONAL TRAINING	C126
E004C	SCHOOL PRINCIPAL	C126
X008C	SECURITIES CHIEF EXAMINER	C126
D016C	SENIOR TECHNOLOGY ANALYST	C126
G039C	SENIOR TRANSPORTATION MANAGER	C126
C001C	STADIUM COMMISSION ASST MANAGER/ADMR	C126
D015C	STATE NETWORK ENGINEER	C126
D014C	STATE SYSTEMS ADMINISTRATOR	C126
A027C	ACCOUNTING OPERATIONS MANAGER	C125
G061C	ACD DEPUTY DIRECTOR	C125
R009C	ADE BUDGET MANAGER	C125
G063C	ADEQ BRANCH MANAGER	C125
L013C	ADH BRANCH MANAGER	C125
D019C	ADPT DIR RESEARCH & INFO SVC	C125
G062C	AEDC PROJECT/REGIONAL MANAGER	C125
L012C	ASD SPECIALTY PROGRAM DIRECTOR	C125
G060C	DDSSA ASST DIRECTOR — QUALITY ASSURANCE	C125
G059C	DDSSA ASST DIRECTOR — UNIT OPERATIONS	C125
A025C	DFA ACCOUNTING CAFR COORDINATOR	C125
D021C	DFA ERP GROUP LEAD	C125
A026C	DFA STATE ACCOUNTING MANAGER	C125
G058C	DHE FEDERAL PROGRAM MANAGER	C125
L011C	DHS ALCOHOL/DRUG ABUSE PREV ASST DEP DIR	C125
M005C	DHS ASSISTANT SUPERINTENDENT — CONWAY	C125
G057C	DHS DEP DIR — DCSNS	C125

A024C	DHS DIVISION CHIEF FISCAL OFFICER	C125
L010C	DHS DMS MEDICAL ASSISTANCE MANAGER	C125
R008C	DHS EMPLOYEE RELATIONS MANAGER	C125
G056C	DHS/DCC ASST DIR OPS & PROG SUPV	C125
E010C	DHS/DYS EDUCATION MANAGER	C125
T010C	DIRECTOR OF PUBLIC SAFETY II	C125
X012C	EDUCATION CHIEF INVESTIGATOR	C125
X013C	ENVIRONMENTAL HEALTH MANAGER	C125
B019C	FORENSIC ADMINISTRATOR	C125
D020C	INST INFORMATION TECHNOLOGY COORD	C125
L009C	NURSE MANAGER	C125
L008C	NURSING HOME ADMINISTRATOR	C125
A023C	PHARMACY BOARD CHIEF FISCAL OFFICER	C125
M004C	RESIDENTIAL OPERATIONS MANAGER	C125
B018C	SENIOR BROADCAST ENGINEER	C125
A022C	STUDENT LOAN FINANCE SPECIALIST	C125
E009C	TECHNICAL INSTITUTE ASSISTANT DIRECTOR	C125
S094C	ADC CONSTRUCTION/MAINTENANCE COORD	C124
T015C	ADC/DCC DEPUTY WARDEN	C124
D037C	ADE APSCN APPLICATIONS MANAGER	C124
G074C	ADE COORD OF GOVERNMENTAL AFFAIRS	C124
A032C	ADE FINANCE PROGRAM COORDINATOR	C124
G075C	ADE PROGRAM ADMINISTRATOR	C124
L017C	ADH AREA NURSING DIRECTOR	C124
L016C	ADH PUBLIC HEALTH ADMINISTRATOR	C124
G076C	ADMINISTRATIVE SERVICES MANAGER	C124
B020C	ADPT REGIONAL PARK SUPV	C124
B025C	AERONAUTICS ASSISTANT DIRECTOR	C124
E014C	AETN PROGRAM AND SERVICES DIV MANAGER	C124
D036C	AETN WEBSITE COORDINATOR	C124
T014C	AGFC CAPTAIN	C124
T013C	ASP PILOT	C124
T011C	ASP SERGEANT	C124
A031C	ASSISTANT CONTROLLER	C124
G073C	ATTORNEY	C124
X022C	BAIL BONDSMAN BOARD EXECUTIVE DIRECTOR	C124
X021C	BD OF ACCT INVESTIGATOR	C124
X020C	BURIAL ASSOCIATION BD EXEC SEC	C124
L015C	CLINICAL SPEECH PATHOLOGIST	C124
D035C	COMPUTER SUPPORT MANAGER	C124

B024C	CONSERVATION PROGRAM MANAGER	C124
D034C	DATABASE ADMINISTRATOR	C124
D033C	DFA ERP ANALYST	C124
G071C	DHE PROGRAM COORDINATOR	C124
G070C	DIRECTOR OF FIELD OPERATIONS	C124
A029C	DIS FISCAL MANAGER	C124
D032C	DIS IT ASSET MANAGER	C124
G069C	DIS QUALITY ASSURANCE LEAD	C124
D031C	DISASTER RECOVERY ANALYST	C124
B022C	DISTRICT FORESTER	C124
X019C	DRUG COURT ADMINISTRATOR	C124
G068C	DWS AREA OPERATIONS CHIEF	C124
G072C	DWS WORKFORCE INVESTMENT PROG MGR	C124
E013C	EDUCATION PROGRAM MANAGER	C124
B023C	ENGINEER, P.E.	C124
T012C	EXPLOSIVE TEAM COORDINATOR	C124
V002C	FEDERAL SURPLUS PROPERTY MANAGER	C124
L014C	HIPAA PROGRAM CONSULTANT	C124
D030C	INFORMATION SYSTEMS COORDINATOR	C124
X018C	INSURANCE CONSUMER PROTECTION MANAGER	C124
X017C	INSURANCE LICENSING MANAGER	C124
B021C	LICENSED ARCHITECT	C124
X016C	MANUFACTURED HOMES COMMISSION DI- RECTOR	C124
G077C	MLK COMMISSION EXECUTIVE DIRECTOR	C124
G067C	PSC CUSTOMER SERVICE MANAGER	C124
A028C	PSC SENIOR RATE CASE ANALYST	C124
G066C	PSC TELECOM AND QUALITY OF SERVICE MGR	C124
G065C	PUBLIC DEFENDER ATTORNEY I	C124
X015C	SECURITIES EXAMINER SUPERVISOR	C124
D029C	SENIOR GIS ANALYST	C124
D028C	SENIOR SOFTWARE SUPPORT SPECIALIST	C124
D027C	SOFTWARE ENGINEER	C124
G064C	SR HLTH INSURANCE INFORMATION PRG MGR	C124
D026C	STATE HELP DESK LEAD	C124
D025C	STATE IT SECURITY SPECIALIST	C124
E012C	STATE LIBRARY DIVISION MANAGER	C124
D024C	STATE NETWORK SPECIALIST	C124
D023C	STATE SYSTEMS SPECIALIST	C124
D022C	SYSTEMS SPECIALIST	C124

X014C	TOBACCO SETTLEMENT COMMISSION DIRECTOR	C124
E011C	VOCATIONAL EDUCATION COORDINATOR	C124
E061C	ACE PROGRAM COORDINATOR	C123
G090C	ADE AREA PROJECT MANAGER	C123
G089C	ADEM ADMINISTRATION DIVISION DIRECTOR	C123
G088C	ADEM DISASTER MGMT DIV DIR	C123
D043C	ADEM INFO TECHNOLOGY DIVISION DIRECTOR	C123
G087C	ADEM PREPAREDNESS DIVISION DIRECTOR	C123
A040C	ADFA FISCAL PROGRAM MANAGER	C123
L026C	ADH NURSING PROGRAM COORD	C123
L025C	ADH PUBLIC HEALTH SECTION CHIEF III	C123
M006C	ADH SOC SVC PROGRAM DIRECTOR	C123
G091C	ADPT MARKETING & PROMOTION DIR	C123
G078C	ADPT PRG SVS ADMIN	C123
A036C	ADPT REV OPERATIONS MANAGER	C123
R013C	AGENCY HUMAN RESOURCES MANAGER	C123
B046C	AGFC BIOLOGIST PROGRAM SPECIALIST	C123
B122C	AGFC BIOLOGIST SUPERVISOR	C123
T017C	AGFC LIEUTENANT	C123
B039C	AGFC NATURE CENTER MANAGER	C123
X031C	AGFC OPERATIONS & FACILITY MANAGER	C123
B029C	AGRI PLANT BOARD DIVISION MGR	C123
S093C	ASP FLEET MANAGER	C123
G086C	ASP PROGRAM ASST ADMINISTRATOR	C123
E017C	ASST PRINCIPAL	C123
A106C	BANK SENIOR EXAMINER	C123
X028C	BD OF BARBER EXAM SECRETARY	C123
X030C	BOARD OF APPRAISER CHIEF INVESTIGATOR	C123
T016C	CLEST DEPUTY DIRECTOR ACADEMY OPERATIONS	C123
B028C	CLEST DEPUTY DIRECTOR STANDARDS DIVISION	C123
X026C	CRIMINAL DETENTION FACILITIES COORD	C123
D042C	DATA WAREHOUSE SPECIALIST	C123
X025C	DCC PAROLE/PROBATION AREA MANAGER	C123
G085C	DDSSA PROFESSIONAL RELATIONS MGR	C123
X027C	DENTAL EXAMINERS BD EXEC DIR	C123
R012C	DFA ASSISTANT STATE PAYROLL MANAGER	C123
G084C	DFA DIVISION MANAGER II	C123

G223C	DFA OCSE DIVISION MANAGER	C123
G226C	DFA OCSE PROGRAM MANAGER	C123
V003C	DFA PROCUREMENT DIVISION MANAGER	C123
R011C	DFA SENIOR STATE BUDGET ANALYST	C123
R010C	DFA SENIOR STATE PERSONNEL ANALYST	C123
P005C	DHE COMMUNICATIONS COORDINATOR	C123
L024C	DHS BEHAV HLTH FACILITY ADMIN	C123
G083C	DHS/DAAS DIVISION MANAGER	C123
G082C	DHS/DYS ADMISSIONS EVALUATOR	C123
D041C	DIS TECHNICAL ACCOUNTS SPECIALIST	C123
G081C	DWS DIVISION CHIEF	C123
A038C	FISCAL SUPPORT MANAGER	C123
B030C	FORENSIC SCIENTIST COORDINATOR	C123
D040C	GIS ANALYST	C123
L023C	HEALTH FACILITIES SUPERVISOR	C123
A037C	INVESTMENT MANAGER	C123
G238C	LOCAL HEALTH UNIT ADMINISTRATOR III	C123
G080C	NATIONAL & COMMUNITY SERVICES EXEC DIR	C123
D039C	NETWORK SUPPORT SPECIALIST	C123
L022C	NURSING CLINIC COORDINATOR	C123
L021C	NURSING HOME ASSISTANT ADMINISTRA- TOR	C123
L020C	NURSING SERVICES UNIT MANAGER	C123
G079C	OUTDOOR REC GRANTS PRGM DIR	C123
B027C	PARK SUPERINTENDENT V	C123
A035C	PSC TAX DIV ASST DIR/MOTOR CAR PROG	C123
P004C	PUBLIC INFORMATION MANAGER	C123
E016C	PUBLIC SCHOOL PROGRAM COORDINATOR	C123
L019C	REGISTERED NURSE COORDINATOR	C123
L018C	REHAB ASST DIRECTOR — ACTI	C123
A034C	RETIREMENT SECTION MANAGER	C123
D038C	SENIOR SOFTWARE SUPPORT ANALYST	C123
E015C	SPECIAL EDUCATION SUPERVISOR	C123
A033C	TAX AUDITOR SUPERVISOR	C123
M087C	UAF DIRECTOR OF HOUSING	C123
E062C	ACE PROGRAM ADVISOR	C122
T021C	ADC HEAD FARM MANAGER I	C122
E020C	ADE OERZ TECHNICAL ASSIST SPECIALIST	C122
X036C	ADEQ INSPECTOR SUPERVISOR	C122
L030C	ADH DISTRICT MANAGER	C122
L029C	ADH PUBLIC HEALTH SECTION CHIEF II	C122
G105C	ADPT DEVELOPMENT MANAGER	C122
G104C	AEDC AREA/PROGRAM REPRESENTATIVE	C122

P007C	AETN CHIEF POST PRODUCTION EDITOR	C122
T020C	AGFC SERGEANT	C122
X035C	ASP/CACD AREA MANAGER	C122
G103C	ASSOCIATE REGISTRAR	C122
A044C	AUDIT COORDINATOR	C122
B037C	CHEMIST SUPERVISOR	C122
B032C	CHIEF PARK PLANNER	C122
B036C	CRIME LAB QUALITY MANAGER	C122
P006C	DAH AGENCY ASSISTANT DIRECTOR	C122
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G102C	DHE PROGRAM SPECIALIST	C122
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G099C	DHS PROGRAM ADMINISTRATOR	C122
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B035C	GEOLOGY SUPERVISOR	C122
T018C	HE PUBLIC SAFETY COMMANDER III	C122
D047C	INFORMATION SYSTEMS BUSINESS ANALYST	C122
A043C	INSURANCE FORENSIC ACCOUNTANT	C122
A042C	INSURANCE SENIOR EXAMINER	C122
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G095C	LODGE MANAGER	C122
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G094C	OIL & GAS PROGRAM MANAGER	C122
G093C	OPERATIONS MANAGER	C122
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X034C	PREPAID FUNERAL MANAGER	C122
A041C	PROGRAM FISCAL MANAGER	C122
X033C	PSC SENIOR PUBLIC UTILITY AUDITOR	C122
G092C	PUBLIC DEFENDER PROGRAM MANAGER	C122
E019C	PUBLIC SCHOOL PROGRAM ADVISOR	C122
L027C	REGISTERED NURSE SUPERVISOR	C122
G097C	SBEC DEPUTY DIRECTOR	C122
D050C	SECURITY ANALYST	C122
X032C	SENIOR SECURITIES EXAMINER	C122
E018C	SPECIALIZED TECHNICAL FACULTY	C122
D046C	STATE PRODUCTION CONTROL SUPERVISOR	C122

D045C	STATE SYSTEMS ANALYST	C122
D044C	SYSTEMS ANALYST	C122
B033C	UAF CONSTRUCTION COORDINATOR	C122
A052C	ACCOUNTING COORDINATOR	C121
X046C	ACD DIVISION ADMINISTRATOR	C121
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G222C	ADC/DCC INTERNAL AFFAIRS ADMINISTRATOR	C121
T027C	ADC/DCC TRAINING ADMINISTRATOR	C121
D055C	ADE APSCN FIELD ANALYST	C121
A051C	ADFA FINANCE PROGRAM COORDINATOR	C121
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X043C	ADH ENVIRONMENTAL SUPV	C121
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L091C	ADH PUBLIC HEALTH SECTION CHIEF I	C121
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C005C	AGFC LICENSING MANAGER	C121
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C004C	AREC SUPERVISOR	C121
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B045C	BIOLOGIST SUPERVISOR	C121
D054C	COMPUTER SUPPORT COORDINATOR	C121
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G235C	DDSSA MEDICAL CONSULTANT ASSISTANT	C121
G112C	DDSSA UNIT SUPERVISOR	C121
X041C	DFA ABC ENFORCEMENT ASSISTANT DIRECTOR	C121
G224C	DFA OCSE FIELD MANAGER	C121
A049C	DFA REVENUE OFFICE DISTRICT MANAGER	C121
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D053C	DIS ACCOUNT ANALYST	C121
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T023C	HE PUBLIC SAFETY COMMANDER II	C121
B044C	HEALTH PHYSICIST SUPERVISOR	C121
A105C	JDDC FISCAL MANAGER	C121
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L031C	LICENSED PROF MARRIAGE/FAMILY THERAPIST	C121
G116C	LOCAL HEALTH UNIT ADMINISTRATOR II	C121
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L036C	NURSE INSTRUCTOR	C121
L035C	NUTRITIONIST CONSULTANT	C121
L034C	NUTRITIONIST SUPERVISOR	C121
R014C	PERSONNEL MANAGER	C121
V004C	PROCUREMENT MANAGER	C121
B043C	PROFESSIONAL GEOLOGIST	C121
A046C	PSC RATE CASE ANALYST	C121
L033C	PSYCHOLOGICAL EXAMINER	C121
G108C	PUBLIC DEF OMBUDSMAN COORDINATOR	C121
X038C	QUALITY ASSURANCE MANAGER	C121
L032C	REGISTERED NURSE — HOSPITAL	C121
D052C	SOFTWARE SUPPORT ANALYST	C121
C003C	STADIUM COMMISSION MARKETING/ EVENT MGR	C121
B041C	STATE CLIMATOLOGIST	C121
B038C	STATE FOREST MANAGER	C121
E021C	STATE LIBRARY MANAGER	C121
A045C	STATISTICAL ANALYSIS MANAGER	C121
D051C	SYSTEMS APPLICATIONS SUPERVISOR	C121
P009C	TELEVISION PRODUCTION MANAGER	C121
P008C	TELEVISION PROGRAM MANAGER	C121
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G106C	WCC CLAIMS SPECIALIST	C121
M008C	YOUTH PROGRAM DIRECTOR	C121
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G142C	ADC CLASSIFICATION ADMINISTRATOR	C120
G141C	ADC INDUSTRY ASSISTANT ADMR	C120
T033C	ADC/DCC MAJOR	C120

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B049C	AGRI PROGRAM MANAGER	C120
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D060C	ASST DIR COMPUTER SVCS	C120
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S006C	ASU ASSOC DIR PHYSICAL PLANT	C120
B056C	ASU CONSTRUCTION COORDINATOR	C120
G136C	ASU DIRECTOR OF HOUSING	C120
D059C	ASU ENGINEERING COMM FACILITIES DIR	C120
X057C	ATC DEPUTY DIRECTOR	C120
R019C	BUDGET MANAGER	C120
B054C	CAMPUS CONSTRUCTION COORDINATOR	C120
X056C	CAPITAL CONFLICTS INVESTIGATOR	C120
E027C	CAREER & TECHNICAL FACULTY	C120
M017C	CHILD ABUSE & NEGLECT PREVENTION BD DIR	C120
D058C	COMPUTER OPERATIONS COORDINATOR	C120
G135C	COORD DESEGREGATION & AFFIRM ACTN	C120
X190C	DDSSA CASE CONSULTANT	C120
A058C	DFA CAFR ACCOUNTANT	C120
G133C	DFA DIVISION MANAGER I	C120
R018C	DFA EBD PROGRAM SUPERVISOR	C120
G227C	DFA OCSE PROGRAM SUPERVISOR	C120
V006C	DFA OSP TEAM LEADER	C120
V005C	DFA PROCUREMENT MANAGER	C120
G132C	DFA PROGRAM MANAGER	C120
T032C	DFA REVENUE SECURITY COORDINATOR	C120
R017C	DFA STATE BUDGET ANALYST	C120
R016C	DFA STATE PERSONNEL ANALYST	C120
A057C	DFA TAX RESEARCH ANALYST	C120
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A056C	DHS FINANCIAL SECTION MANAGER	C120
A055C	DHS INSTITUTION BUSINESS MANAGER	C120

G129C	DHS/DCO PROGRAM MANAGER	C120
L040C	DIETARY SERVICES DIRECTOR	C120
R015C	DWS EQUAL OPPORTUNITY MANAGER	C120
G128C	DWS FIELD MANAGER II	C120
G127C	DWS PROGRAM OPERATIONS MANAGER	C120
B055C	ECOLOGIST COORDINATOR	C120
E026C	EDUCATION & INSTRUCTION COORDINATOR	C120
E025C	EDUCATIONAL SPECIALIST	C120
X054C	ENVIRONMENTAL PROGRAM COORDINATOR	C120
M015C	FAMILY SERVICE WORKER SUPERVISOR	C120
G126C	FINANCE PROGRAM COORDINATOR	C120
B053C	FORENSIC SCIENTIST	C120
B052C	FORENSIC SPECIALIST	C120
B051C	GEOLOGIST	C120
T030C	HE PUBLIC SAFETY COMMANDER I	C120
D057C	INFORMATION TECHNOLOGY MANAGER	C120
G125C	INSURANCE SPECIAL PROJECTS COORDINATOR	C120
X053C	INTERNAL AFFAIRS MANAGER	C120
X052C	LABOR INSPECTOR SUPERVISOR	C120
X051C	LABOR MEDIATOR	C120
M088C	LICENSED MASTER SOCIAL WORKER	C120
G143C	LOCAL HEALTH UNIT ADMINISTRATOR I	C120
P014C	MUSEUM MANAGER	C120
L039C	NUTRITIONIST	C120
B050C	OIL & GAS DISTRICT PETROLEUM SUPERVISOR	C120
G124C	OMBUDSMAN	C120
B048C	PARK SUPERINTENDENT III	C120
X050C	PHYSICAL THERAPY BD EXEC DIR	C120
M014C	PROGRAM ELIGIBILITY COORDINATOR III	C120
X049C	PROPERTY ASSESSMENT COORD MANAGER	C120
G123C	PSC CLERK	C120
X048C	PSC PIPELINE SAFETY SPECIALIST	C120
G122C	PUBLIC DEFENDER PROGRAM COORDINATOR	C120
P013C	PUBLIC INFORMATION COORDINATOR	C120
X047C	REAL ESTATE MANAGER	C120
L038C	REGISTERED NURSE	C120
L037C	REHAB AREA MANAGER	C120
G121C	REHAB PROGRAM MANAGER	C120
G120C	RISK CONSULTANT	C120

G119C	SBEC EDUCATIONAL SERVICES MANAGER	C120
T028C	SOSRA PROGRAM ADMINISTRATOR	C120
M013C	SPINAL CORD COMMISSION CLIENT SVS ADMIN	C120
D056C	SYSTEMS COORDINATION ANALYST	C120
A054C	TAX AUDITOR II	C120
E024C	TEACHER SUPERVISOR	C120
P012C	TELEVISION PRODUCER	C120
E023C	TRAINING PROJECT MANAGER	C120
G118C	UAF ASSOC DIR OF AR UNION	C120
A053C	UAF ASST BUSINESS MANAGER	C120
P011C	UAF SPORTS INFORMATION COORDINATOR	C120
B057C	VETERINARY BOARD EXEC SECRETARY	C120
M012C	YOUTH PROGRAM MANAGER	C120
G158C	ACIC PROGRAM MANAGER	C119
T040C	ADC ASSISTANT HEAD FARM MANAGER	C119
S011C	ADC COMMODITY & FOOD SVC ADMR	C119
S095C	ADC CONSTRUCTION PROJECT SPECIALIST	C119
S096C	ADC CONSTRUCTION PROJECT SUPERVI- SOR	C119
S010C	ADC INDUSTRY PROGRAM MANAGER	C119
T039C	ADC INMATE TRANSPORTATION COORD	C119
V009C	ADC PROCUREMENT & PROPERTY MAN- AGER	C119
T038C	ADC TRAINING ACADEMY SUPERVISOR	C119
G157C	ADEM AREA COORDINATOR	C119
B068C	ADEQ ECOLOGIST	C119
X075C	ADEQ ENFORCEMENT ANALYST	C119
A071C	ADFA FINANCE PROGRAM ANALYST	C119
B124C	AGFC BIOLOGIST	C119
T037C	AGFC WILDLIFE OFFICER 1ST CLASS	C119
B059C	ANRC PROGRAM COORDINATOR	C119
B067C	ARCHAEOLOGIST	C119
S009C	ASD/ASB TRANSPORTATION SERVICES CO- ORD	C119
G156C	ASP PROGRAM MANAGER	C119
T035C	ASP TROOPER 1ST CLASS	C119
B064C	ASU DIRECTOR OF FARMING	C119
X074C	ATC AUDITOR/INVESTIGATOR	C119
L045C	AUDIOLOGIST	C119
A070C	BANK EXAMINER	C119
R022C	BENEFITS COORDINATOR	C119
B066C	BIOLOGIST SPECIALIST	C119
R021C	BUDGET ANALYST	C119

V008C	BUYER SUPERVISOR	C119
S008C	CAMPUS MAINTENANCE SUPERVISOR	C119
E036C	CERTIFIED MASTERS DEGREE LIBRARIAN	C119
E035C	CERTIFIED MASTERS TEACHER	C119
L098C	CERTIFIED VOCATIONAL REHAB COUNSELOR	C119
D063C	COMPUTER SUPPORT SPECIALIST	C119
X073C	CONTRACTORS BOARD INVESTIGATOR	C119
X072C	CRIMINAL INSURANCE FRAUD INVESTIGATOR	C119
P016C	CURATOR	C119
P015C	DAH MANAGER OF HISTORIC PROPERTIES	C119
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D062C	DATABASE ANALYST	C119
G154C	DCC PROGRAM COORDINATOR	C119
M021C	DCC TREATMENT SUPERVISOR	C119
X071C	DDSSA CLAIMS ADJUDICATOR III	C119
X070C	DDSSA FRAUD INVESTIGATOR	C119
G159C	DEPARTMENT BUSINESS COORDINATOR	C119
P065C	DEVELOPMENT SPECIALIST	C119
X069C	DFA HORSE RACING SUPERVISOR	C119
E033C	DFA ORGANIZATIONAL DEVELOPMENT SPEC	C119
A069C	DFA REVENUE OFFICE ASST DISTRICT MANAGER	C119
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G151C	DHS/DCO COUNTY SUPERVISOR	C119
G150C	DHS/DCSNS ASST DEP DIR	C119
S007C	DIRECTOR HVACR SECTION	C119
A068C	DIS BILLING SERVICES MANAGER	C119
G149C	DWS FIELD MANAGER I	C119
B065C	ECOLOGIST	C119
E032C	EDUCATION COUNSELOR	C119
E031C	EDUCATION PROGRAM COORDINATOR	C119
G232C	ENERGY CONSERVATION MANAGER	C119
G148C	ENERGY PROGRAM MANAGER	C119
X068C	ETHICS COMMISSION COMPLIANCE SPECIALIST	C119
B062C	FOREST HEALTH SPECIALIST	C119
G147C	GRANTS COORDINATOR	C119

X067C	HEALTH FACILITIES SURVEYOR	C119
B063C	HEALTH PHYSICIST	C119
L043C	HEALTH PROGRAM SPECIALIST III	C119
D061C	INFORMATION SYSTEMS COORDINATION SPEC	C119
A067C	INSURANCE EXAMINER	C119
X066C	INSURANCE PREMIUM TAX EXAMINER	C119
A066C	INTERNAL AUDITOR	C119
X187C	INVESTIGATOR	C119
X065C	LABOR INSPECTOR	C119
B060C	LAND RESOURCE SPECIALIST SUPERVISOR	C119
E030C	LIBRARY COORDINATOR	C119
M020C	LICENSED PROFESSIONAL COUNSELOR	C119
T036C	MILITARY FACILITIES SUPERVISOR	C119
M019C	MILITARY HOUSING DIRECTOR	C119
G146C	MITIGATION SPECIALIST	C119
A065C	PAYROLL SERVICES COORDINATOR	C119
V007C	PROCUREMENT COORDINATOR	C119
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A064C	PSC TAX VALUATION SUPERVISOR	C119
X063C	PUBLIC DEFENDER INVESTIGATOR	C119
X062C	QUALITY ASSURANCE COORDINATOR	C119
A063C	RESEARCH & STATISTICS SUPERVISOR	C119
B061C	RESEARCH TECHNOLOGIST	C119
A062C	RETIREMENT COORDINATOR	C119
A061C	RETIREMENT INVESTMENT SPECIALIST	C119
G145C	RURAL CONST GRANT/FINANCIAL OFFICER	C119
L042C	SCHOOL SPEECH PATHOLOGIST	C119
X061C	SECURITIES EXAMINER	C119
A060C	SENIOR AUDITOR	C119
B126C	SENIOR CHEMIST	C119
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B058C	STAFF FORESTER	C119
A059C	TAX AUDITOR	C119
G144C	TECHNICAL INSTITUTE PROGRAM COORDI- NATOR	C119
T034C	WORK RELEASE CENTER SUPERVISOR	C119
S013C	ABA BUILDING/PROGRAM SUPERVISOR	C118
T048C	ADC/DCC CAPTAIN	C118

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X186C	ADEQ AIR COMPLIANCE MONITOR	C118
X093C	ADEQ INSPECTOR	C118
G173C	ADFA PROGRAM COORDINATOR	C118
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T047C	AGFC WILDLIFE OFFICER	C118
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S015C	ASST LODGE MANAGER	C118
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C011C	BD OF ARCH ADMIN ASST/OFFICE MGR	C118
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M029C	CHILD SUPPORT SUPERVISOR II	C118
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G171C	COORD OF AFRICAN AMERICAN HIST PRGM	C118
T045C	DCC PAROLE/PROBATION OFFICER	C118
X085C	DFA ABC ENFORCEMENT OFFICER	C118
X084C	DFA DOG RACING SUPERVISOR	C118
A077C	DFA LOCAL REVENUE OFFICE MANAGER	C118
V010C	DFA OSP BUYER	C118
G170C	DHS ADMINISTRATIVE REVIEW OFFICER	C118
E039C	DHS/DSB TEACHER FOR THE BLIND	C118
D066C	DIGITAL BROADCAST SPECIALIST	C118
G169C	DIRECTOR OF STUDENT UNION	C118
L049C	DISEASE INTERVENTION SPEC SUPV	C118
E038C	EDUCATION & INSTRUCTION ANALYST	C118
E037C	EDUCATION PROGRAM SPECIALIST	C118
X088C	EMBALMERS & FUNERAL DIR INVESTIGA- TOR	C118
G164C	EXECUTIVE ASSISTANT TO THE COMMIS- SIONERS	C118

C010C	EXECUTIVE ASSISTANT TO THE DIRECTOR	C118
M027C	FAMILY SERVICE WORKER SPECIALIST	C118
A076C	FINANCE PROGRAM ANALYST	C118
A075C	FINANCIAL ANALYST I	C118
A074C	FISCAL SUPPORT SUPERVISOR	C118
B073C	FORENSIC TECHNICIAN SUPERVISOR	C118
L048C	HEALTH PROGRAM SPECIALIST II	C118
C009C	HEARING REPORTER	C118
G168C	INDUSTRIAL CONSULTANT	C118
R023C	INSTITUTION PERSONNEL SVCS MANAGER	C118
X083C	INSURANCE LIFE & HEALTH COMP OF- FICER	C118
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G167C	KEEP ARKANSAS BEAUTIFUL DIRECTOR	C118
L046C	LICENSED ASSOC MARRIAGE/FAMILY THERAPIST	C118
M026C	LICENSED SOCIAL WORKER	C118
L047C	MEDICAL TECHNOLOGIST SUPERVISOR	C118
T043C	MILITARY DEPUTY FIRE CHIEF	C118
G166C	MILITARY PROGRAM COORDINATOR	C118
D065C	NETWORK SUPPORT ANALYST	C118
X082C	OIL & GAS INSPECTOR	C118
B075C	PARK PLANNER	C118
B071C	PARK SUPERINTENDENT II	C118
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A073C	PROGRAM/FIELD AUDITOR SUPERVISOR	C118
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X078C	PSC UTILITIES SERVICES SPECIALIST	C118
X077C	REAL ESTATE OFFICER	C118
G163C	REHAB PROGRAM COORDINATOR	C118
A072C	RESEARCH & STATISTICS MANAGER	C118
M024C	RESIDENTIAL SERVICES MANAGER	C118
S014C	RESTAURANT MANAGER	C118
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C028C	MEDICAL RECORDS SUPERVISOR	C115
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L071C	DENTAL HYGIENIST	C113
C048C	DFA SUPERVISOR	C113
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R036C	HUMAN RESOURCES SPECIALIST	C113
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C045C	LICENSING COORDINATOR	C113
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C044C	MEDICAL BILLING SPECIALIST	C113
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T081C	COMMISSARY MANAGER	C112
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A099C	CREDIT & COLLECTIONS SUPV	C112
E055C	DAY CARE TEACHER	C112
T080C	DIRECTOR TRANSIT & PARKING	C112
D088C	EMERGENCY COMMUNICATION SPECIAL- IST	C112
T079C	FACILITY MANAGER II	C112
B105C	FARM FOREMAN — INST	C112
A098C	FISCAL SUPPORT SPECIALIST	C112
S052C	HEAVY EQUIPMENT SPECIALIST	C112
S051C	INSTRUMENTATION TECHNICIAN	C112
C054C	LOCAL OFFICE ADMINISTRATIVE SPECIAL- IST	C112
S050C	MAINTENANCE SPECIALIST	C112
C053C	MEDICAL RECORDS TECHNICIAN	C112
T078C	MILITARY FIRE & POLICE OFFICER	C112
C052C	PARK OFFICE MANAGER I	C112
A097C	PAYROLL TECHNICIAN	C112
X173C	PEST CONTROL TECHNICIAN SUPERVISOR	C112
V022C	PURCHASING TECHNICIAN	C112
M072C	RECREATION COORDINATOR	C112
B106C	RESEARCH ASSISTANT	C112
M071C	RESIDENTIAL CARE SHIFT COORDINATOR	C112
B104C	SEED ANALYST	C112
P053C	SPECIAL EVENTS COORDINATOR	C112
P052C	SPORTS INFORMATION SPECIALIST	C112
V021C	SURPLUS PROPERTY AGENT	C112
X172C	TAX INVESTIGATOR	C112
P051C	THEATER ARTS TECHNICAL SUPERVISOR	C112
M070C	YOUTH PROGRAM SPECIALIST	C112
M069C	YOUTH SERVICES TECHNICIAN	C112
V024C	ADC PROPERTY OFFICER	C111
C060C	ALUMNI AFFAIRS SPECIALIST	C111
X179C	ASP COMMERCIAL DRIVER LICENSE EXAM- INER	C111
S055C	ATHLETIC FACILITY SUPV	C111
M077C	COORDINATOR OF HOUSEKEEPING	C111

C059C	DFA SERVICE REPRESENTATIVE	C111
C058C	EDUCATION PARAPROFESSIONAL	C111
X178C	FINGERPRINT TECHNICIAN	C111
S056C	FOOD PREPARATION SUPERVISOR	C111
D089C	INFORMATION TECHNOLOGY ASSISTANT	C111
B108C	LABORATORY COORDINATOR	C111
L073C	LACTATION CONSULTANT	C111
E058C	LIBRARY SPECIALIST	C111
X177C	PEST CONTROL TECHNICIAN	C111
S054C	PRINTER	C111
M076C	RECREATIONAL ACTIVITY LEADER II	C111
M075C	RESIDENT HALL SPECIALIST	C111
M074C	RESIDENTIAL ADVISOR	C111
M073C	RESIDENTIAL CARE SUPERVISOR	C111
V023C	STOREROOM SUPERVISOR	C111
B109C	SURVEY CREW CHIEF	C111
B110C	VETERINARIAN ASSISTANT	C111
M078C	VOLUNTEER SERVICES COORDINATOR	C111
C065C	ADMISSIONS ANALYST SUPERVISOR	C110
X182C	ASP DRIVERS LICENSE EXAMINER	C110
L092C	ATHLETIC TRAINER	C110
R039C	BENEFITS SPECIALIST	C110
C064C	BOOKSTORE OFFICE MANAGER	C110
D092C	CALL CENTER SPECIALIST	C110
C063C	CAMPUS POSTMASTER	C110
X181C	COLLECTOR	C110
D091C	COMPUTER LAB TECHNICIAN	C110
D090C	COMPUTER PUBLISHING OPERATOR	C110
M090C	DHS PROGRAM ASSISTANT	C110
X183C	DWS CLAIMS ADJUDICATOR	C110
S058C	EQUIPMENT MECHANIC	C110
L078C	FAMILY SERVICES ASSISTANT	C110
B120C	FARM MAINTENANCE MECHANIC	C110
L077C	HEALTH SERVICES SPECIALIST II	C110
L076C	HOSPITAL PROGRAM SERVICES ASSISTANT	C110
R038C	HUMAN RESOURCES ASSISTANT	C110
X180C	INSURANCE LICENSING TECHNICIAN	C110
B111C	LABORATORY TECHNICIAN	C110
S057C	LANDSCAPE SPECIALIST	C110
P057C	LIVESTOCK NEWS REPORTER	C110
C062C	LOCAL OFFICE ADMINISTRATIVE ASSISTANT	C110
S059C	LODGE COOK	C110
P056C	MUSEUM PROGRAM ASSISTANT II	C110

L075C	ORTHOTIST AIDE	C110
A100C	PAYROLL OFFICER	C110
T084C	PUBLIC SAFETY SECURITY OFFICER	C110
P055C	SPECIAL EVENTS SUPERVISOR	C110
C061C	STUDENT ACCOUNT SPECIALIST	C110
L074C	THERAPY ASSISTANT	C110
G221C	VEHICLE FACILITIES COORD	C110
V025C	WAREHOUSE SPECIALIST	C110
A101C	ACCOUNTING TECHNICIAN	C109
C073C	ADMINISTRATIVE SPECIALIST II	C109
C072C	ADMINISTRATIVE SUPPORT SPECIALIST	C109
C071C	ADMISSIONS ANALYST	C109
C067C	ADPT WELCOME CENTER ASSISTANT MAN- AGER	C109
P059C	BROADCAST ANNOUNCER	C109
V026C	CENTRAL SUPPLY TECH SHIFT SUPV	C109
L082C	CERTIFIED NURSING ASSISTANT	C109
S061C	CHDC LAUNDRY OPERATIONS MANAGER	C109
L081C	DENTAL ASSISTANT	C109
L080C	DIETETIC TECHNICIAN	C109
C070C	DUPLICATION ASSISTANT	C109
T085C	FACILITY MANAGER I	C109
B112C	GREENHOUSE TECHNICIAN	C109
S060C	HEAVY EQUIPMENT OPERATOR	C109
L079C	HOSPITAL TECHNICIAN	C109
S063C	INNKEEPER SPECIALIST	C109
S062C	INSTITUTIONAL BUS DRIVER	C109
C069C	LIBRARY TECHNICIAN	C109
C066C	PATIENT ACCOUNT SPECIALIST	C109
M082C	RECREATIONAL ACTIVITY LEADER I	C109
B113C	RESEARCH TECHNICIAN	C109
M081C	RESIDENTIAL CARE SHIFT SUPERVISOR	C109
C068C	RETAIL SPECIALIST	C109
M080C	STUDENT UNION SECTION MANAGER	C109
E056C	TEACHER ASSISTANT	C109
M079C	WORK STUDY COORD	C109
C079C	ADMISSIONS SPECIALIST	C108
M084C	BEHAV HLTH AIDE	C108
C078C	CASHIER	C108
C077C	COOP EXTENSION SRV PRG ASST	C108
C080C	CREDENTIALING ASSISTANT	C108
C076C	DFA TECHNICIAN	C108
A102C	FISCAL SUPPORT TECHNICIAN	C108
S068C	FOOD PREPARATION COORDINATOR	C108

L083C	HEALTH SERVICES SPECIALIST I	C108
S067C	HOUSEKEEPER SUPERVISOR	C108
V027C	INVENTORY CONTROL TECHNICIAN	C108
S066C	LANDSCAPE TECHNICIAN	C108
S065C	MAINTENANCE ASSISTANT	C108
C074C	MEDICAL RECORDS ASSISTANT	C108
P060C	MULTI-MEDIA TECHNICIAN	C108
X184C	OPTICIANS' BOARD SECRETARY TREASURER	C108
B114C	RESEARCH FIELD TECHNICIAN	C108
M083C	RESIDENTIAL CARE TECHNICIAN	C108
S064C	SKILLED TRADES HELPER	C108
X185C	ABSTRACTORS BOARD SECRETARY GENERAL	C107
P062C	ARCHIVAL TECHNICIAN	C107
C086C	DESK CLERK	C107
S070C	EQUIPMENT TECHNICIAN	C107
T086C	FIRE & SAFETY COORDINATOR	C107
S073C	HOUSEKEEPER	C107
S071C	INSITUTIONAL SERVICES SHIFT SUPV	C107
C085C	LIBRARY SUPPORT ASSISTANT	C107
C083C	MAIL SERVICES COORDINATOR	C107
C084C	MAIL SERVICES SPECIALIST	C107
S069C	RADIO DISPATCH OPERATOR	C107
C082C	REGISTRAR'S ASSISTANT	C107
S074C	RESIDENT HALL MANAGER I	C107
S072C	STADIUM COMMISSION CUSTODIAN	C107
P061C	TRAVEL CONSULTANT	C107
C081C	WARD COORDINATOR	C107
C087C	ADMINISTRATIVE SPECIALIST I	C106
B115C	AGRI FARM TECHNICIAN	C106
B116C	AGRI LABORATORY TECHNICIAN	C106
S075C	ATHLETIC EQUIPMENT SUPV	C106
E057C	AUDIOVISUAL LABORATORY ASSISTANT	C106
T089C	HE PUBLIC SAFETY DISPATCHER	C106
S077C	INNKEEPER ASSISTANT	C106
S076C	INSTITUTIONAL BEAUTICIAN	C106
P064C	MUSEUM PROGRAM ASSISTANT I	C106
T088C	PARKING CONTROL SUPV	C106
L086C	PHARMACY ASSISTANT	C106
L085C	PHYSICAL THERAPY AIDE	C106
V029C	PURCHASING ASSISTANT	C106
M089C	RESIDENTIAL CARE ASSISTANT	C106
T087C	SECURITY OFFICER	C106

P063C	SPECIAL EVENTS WORKER	C106
L084C	THERAPY AIDE	C106
V028C	WAREHOUSE WORKER	C106
B117C	ACADEMIC LABORATORY ASSISTANT	C105
S081C	APPRENTICE TRADESMAN	C105
S082C	CANTEEN SUPERVISOR	C105
M086C	CHILD CARE TECHNICIAN	C105
S080C	EQUIPMENT OPERATOR	C105
C089C	LIBRARY TECHNICAL ASSISTANT	C105
C088C	MAIL SERVICES ASSISTANT	C105
L088C	NURSING AIDE/NURSING ASST I	C105
T090C	PARKING CONTROL OFFICER	C105
S079C	REPROD EQUIPMENT OPERATOR	C105
V030C	SHIPPING & RECEIVING CLERK	C105
S078C	STADIUM MAINTENANCE SUPV	C105
S083C	BAKER	C104
M085C	CAREGIVER	C104
S086C	COOK	C104
B118C	FARM WORKER	C104
S085C	FOOD PREPARATION SPECIALIST	C104
S084C	INSTITUTIONAL SERVICES SUPERVISOR	C104
S087C	INSTITUTIONAL SERVICES ASSISTANT	C103
B119C	LAB ASSISTANT	C103
S089C	FOOD PREPARATION TECHNICIAN	C102
S088C	KITCHEN ASSISTANT	C102
V031C	STOCK CLERK	C102
C093C	EXTRA HELP ASSISTANT	C101
S091C	PARK AIDE	C101
S090C	WAITRESS/WAITER	C101
T091C	WATCHMAN	C101

History. Acts 1993, No. 708, § 1; 1995, No. 966, § 1; 1997, No. 530, § 1; 1997, No. 1174, § 1; 1999, No. 1019, § 2; 2001, No. 1462, § 1; 2003, No. 923, § 1; 2003, No. 1473, § 73; 2005, No. 1852, § 1; 2007, No. 376, § 1; 2009, No. 688, § 6; 2011, No. 1017, § 2.

Amendments. The 2007 amendment substituted "CLASS CODE JOB TITLE" for "CLASS TITLE GRADE" in the table heading.

The 2009 amendment deleted "of higher education" following "institutions" in (a)(1), deleted "of the fiscal biennium" following "each year" in (a)(2), and made a minor stylistic change in (a)(1); deleted "of higher education" following "various institutions" in the introductory language of (b), and rewrote the remainder of (b).

The 2011 amendment rewrote (b).

21-5-209. Compensation plan.

(a) There is established for state agencies and institutions covered by this subchapter a compensation plan for the setting of salaries and

salary increases, when deserved, of all employees serving in positions covered by this subchapter.

(b)(1) No employee shall be paid at a rate of pay higher than the appropriate rate in the grade assigned to his or her class, and no employee shall be paid more than the highest pay level established for the employee's grade unless otherwise provided for in this subchapter.

(2) However, an employee presently employed in a position who is being paid at a rate in excess of the maximum for his or her assigned grade may continue to receive his or her rate of pay.

(c) It is the specific intent of the General Assembly to authorize, in the enactment of the compensation plans, rates of pay for each of the appropriate grades assigned to a class, but it is not the intent that any pay increases shall be automatic or that any employee shall have a claim or a right to pay increases unless the department head of the state agency or the institution determines that the employee, by experience, ability, and work performance, is eligible for the increase in pay authorized for the appropriate rate.

(d) Pay levels established in this subchapter are for compensation management purposes and are not to be construed as a contract, right, or other expectation of actual employee salary determination.

(e)(1) The following grades and pay levels shall be the authorized career service pay plan, effective July 1, 2009, and thereafter, for the state service for all positions of state agencies and institutions covered by this subchapter to which a classification title and career service salary grade have been assigned in accordance with this subchapter and the appropriation act of the state agency or institution:

PAY LEVEL					
GRADE:	ENTRY	BASE	MID- POINT	MAXI- MUM	CAREER
C101	\$15,080	\$15,683	\$18,663	\$21,643	\$23,374
C102	\$15,512	\$16,467	\$19,761	\$23,054	\$24,899
C103	\$16,288	\$17,291	\$20,922	\$24,553	\$26,517
C104	\$17,102	\$18,155	\$22,149	\$26,144	\$28,235
C105	\$17,957	\$19,063	\$23,448	\$27,832	\$30,059
C106	\$18,855	\$20,016	\$24,820	\$29,624	\$31,994
C107	\$19,798	\$21,017	\$26,271	\$31,525	\$34,048
C108	\$20,788	\$22,068	\$27,805	\$33,543	\$36,227
C109	\$21,827	\$23,171	\$29,427	\$35,684	\$38,538
C110	\$22,919	\$24,330	\$31,142	\$37,954	\$40,991
C111	\$24,065	\$25,546	\$32,955	\$40,363	\$43,592
C112	\$25,268	\$26,824	\$34,871	\$42,918	\$46,351
C113	\$26,531	\$28,165	\$36,614	\$45,064	\$48,669
C114	\$27,858	\$29,573	\$38,445	\$47,317	\$51,102
C115	\$29,251	\$31,052	\$40,367	\$49,683	\$53,657

C116	\$30,713	\$32,604	\$42,386	\$52,167	\$56,340
C117	\$32,249	\$34,234	\$44,505	\$54,775	\$59,157
C118	\$33,861	\$35,946	\$46,730	\$57,514	\$62,115
C119	\$35,554	\$37,743	\$49,067	\$60,390	\$65,221
C120	\$37,332	\$39,631	\$51,124	\$62,616	\$67,626
C121	\$39,199	\$41,612	\$53,264	\$64,915	\$70,108
C122	\$41,159	\$43,693	\$55,490	\$67,287	\$72,670
C123	\$43,217	\$45,877	\$57,806	\$69,734	\$75,312
C124	\$45,377	\$48,171	\$60,214	\$72,257	\$78,038
C125	\$47,646	\$50,580	\$62,719	\$74,858	\$80,847
C126	\$50,029	\$53,109	\$65,324	\$77,539	\$83,742
C127	\$52,530	\$55,764	\$68,032	\$80,301	\$86,725
C128	\$55,156	\$58,553	\$70,849	\$83,145	\$89,796
C129	\$57,914	\$61,480	\$73,776	\$86,072	\$92,958
C130	\$60,810	\$64,554	\$76,819	\$89,085	\$96,212

(2) The following grades and pay levels shall be the authorized professional and executive pay plan, effective July 1, 2009, and thereafter, for the state service for all positions of state agencies and institutions covered by this subchapter to which a classification title and professional and executive salary grade have been assigned in accordance with this subchapter and the appropriation act of the state agency or institution:

PAY LEVEL

GRADE:	BASE	MIDPOINT	MAXIMUM
N901	\$65,000	\$73,125	\$81,250
N902	\$67,600	\$76,050	\$84,500
N903	\$70,304	\$79,092	\$87,880
N904	\$73,116	\$82,256	\$91,395
N905	\$76,041	\$85,546	\$95,051
N906	\$79,082	\$88,968	\$98,853
N907	\$82,246	\$92,526	\$102,807
N908	\$85,536	\$96,228	\$106,919
N909	\$88,957	\$100,077	\$111,196
N910	\$92,515	\$104,080	\$115,644
N911	\$96,216	\$108,243	\$120,270
N912	\$100,065	\$112,573	\$125,081
N913	\$104,067	\$117,075	\$130,084
N914	\$108,230	\$121,759	\$135,287
N915	\$112,559	\$126,629	\$140,699
N916	\$117,061	\$131,694	\$146,327
N917	\$122,914	\$138,279	\$153,643
N918	\$130,289	\$146,575	\$162,862

N919	\$139,410	\$156,836	\$174,262
N920	\$150,562	\$169,383	\$188,203
N921	\$164,113	\$184,627	\$205,141
N922	\$180,524	\$203,090	\$225,655

(f) It is the intent of the General Assembly that the compensation plans in this section shall be implemented and function in compliance with other provisions in this subchapter, the Regular Salary Procedures and Restrictions Act, § 21-5-101, and other fiscal control laws of this state, when applicable.

History. Acts 1969, No. 199, § 5; 1971, No. 749, § 1; 1973, No. 286, §§ 1, 2; 1974 (Ex. Sess.), No. 39, § 1; 1975, No. 932, § 2; 1977, No. 289, § 1; 1979, No. 3, § 1; 1981, No. 19, § 1; 1983, No. 68, § 1; 1985, No. 101, § 1; A.S.A. 1947, §§ 12-3205, 12-3205n; Acts 1989, No. 793, § 8; 1991, No. 452, § 1; 1991, No. 1148, §§ 4, 14; 1993, No. 770, § 1; 1995, No. 992, § 1; 1997, No. 532, § 1; 1999, No. 813, § 1; 2001, No. 1461, § 3; 2003 (1st Ex. Sess.), No. 22, § 1; 2003 (1st Ex. Sess.), No. 22, § 1; 2005, No. 2198, § 1; 2007, No. 375, § 1; 2009, No. 688, § 7.

Amendments. The 2007 amendment substituted “2007” for “2005” in (d)(1) and substituted “2008” for “2006” in (d)(2), and rewrote the salary charts.

The 2009 amendment substituted “highest pay level established for the employee’s grade unless otherwise provided for in this subchapter” for “maximum for his or her grade” in (b)(1); deleted “maximum” preceding “rates of pay” in (c); inserted (d) and redesignated the subsequent subsection accordingly; rewrote (e); and made minor stylistic changes.

21-5-210. Implementation of plan — Changes in class specifications.

(a) For the purposes of implementing the uniform employee classification and compensation plan for the respective agencies or institutions covered by this subchapter, the General Assembly determines that the class specifications prepared by the Office of Personnel Management in classifying the various positions authorized in the respective appropriation acts shall be the class specifications to be followed in implementing the respective appropriations for all part-time and full-time employees of the respective agencies and institutions covered by this subchapter.

(b) Changes in class specifications may be made, in whole or in part by regulation of the office, and the changes shall be reported on a quarterly basis to the Personnel Subcommittee of the Legislative Council.

History. Acts 1969, No. 199, § 3; 1971, No. 750, § 1; 1973, No. 873, § 2; 1979, No. 828, § 1; 1981, No. 650, § 1; A.S.A. 1947, § 12-3203; Acts 1989, No. 793, § 9; 2001, No. 1461, § 4; 2009, No. 688, § 8.

Amendments. The 2009 amendment deleted “of higher education” following

“institutions” in (a); substituted “and the changes shall be reported on a quarterly basis to the Personnel Committee of the Legislative Council” for “with the review of the Legislative Council” in (b); and made related and minor stylistic changes.

21-5-211. Implementation procedure for grade changes — Salary adjustments.

(a) The Office of Personnel Management shall have administrative responsibility for enforcing compliance by state agencies and institutions affected by this subchapter in implementing classification and grade changes.

(b)(1)(A) The maximum annual rate of compensation for which an employee is eligible on July 1, 2011, shall be determined by increasing the employee's June 30, 2011, salary by one and eighty-six hundredths percent (1.86%).

(B) The maximum annual rate of compensation for which an employee is eligible on July 1, 2012, shall be determined by increasing the employee's June 30, 2012, salary by two and thirty-eight hundredths percent (2.38%).

(2) The additional salary increase of one and eighty-six hundredths percent (1.86%) on July 1, 2011, and the additional salary increase of two and thirty-eight hundredths percent (2.38%) on July 1, 2012, shall not allow an employee's compensation to exceed the maximum pay level amount set out for the position unless the employee is eligible for the career pay level as established in § 21-5-214.

(3) If an employee does not meet the service requirements in § 21-5-214(a), the increase shall be paid as a lump sum on the last pay period of the fiscal year of the year in which the increase is to occur.

(4)(A) An employee compensated at the highest pay level rate authorized for the grade assigned to his or her classification may receive the July 1, 2011, salary increase of one and eighty-six hundredths percent (1.86%) and the July 1, 2012, salary increase of two and thirty-eight hundredths percent (2.38%) authorized in this section as a lump-sum payment.

(B) However, the increase shall be paid as a lump sum on the last pay period of the fiscal year of the year in which the increase is to occur, and the payment shall not be construed as exceeding the maximum salary.

(c)(1) An employee covered by this subchapter is eligible for an additional salary increase of two percent (2%) each fiscal year upon approval by the Governor if:

(A) The Chief Fiscal Officer of the State determines that sufficient general revenues become available; and

(B) The additional salary increase of two percent (2%) does not result in an employee's compensation exceeding the maximum pay level amount set out for the position unless the employee is eligible for the career pay level on the career service pay plan as established in § 21-5-214.

(2)(A) An employee compensated at the highest pay level rate authorized for the grade assigned to his or her classification is eligible to receive the salary increase of two percent (2%) authorized in this section as a lump-sum payment.

(B) However, the increase shall be paid as a lump sum on the last pay period of the fiscal year of the year in which the increase is to occur, and the payment shall not be construed as exceeding the maximum salary.

(d)(1) If the Chief Fiscal Officer of the State determines that general revenue funds are insufficient to implement the salary increases authorized in this subchapter or by any other law that affects salary increases for state employees, the Chief Fiscal Officer of the State upon approval by the Governor may reduce the percentage of all authorized salary increases for all state employees covered by this subchapter without regard to whether or not the employees are compensated from general or special revenues, federal funds, or trust funds.

(2) However, if sufficient general revenues should then become available at any time during the year to provide the maximum additional salary increases for all state employees without regard to the source of revenues, salary increases for state employees provided for in this subchapter or by any other law may be fully implemented by the Chief Fiscal Officer of the State.

(3) Any salary adjustments made by the Chief Fiscal Officer of the State in accordance with this subsection shall be reported to the Personnel Subcommittee of the Legislative Council.

(e) All percentage calculations stipulated in this subchapter or any other law affecting salaries of state employees may be rounded to the nearest even-dollar amount by the office when making the percentage changes to state employee salaries.

History. Acts 1969, No. 199, § 7; 1971, No. 749, § 2; 1973, No. 873, § 7; 1974 (1st Ex. Sess.), No. 39, §§ 3, 4; 1975, No. 932, § 4; 1979, No. 828, § 4; 1981, No. 650, § 4; 1985, No. 981, § 4; A.S.A. 1947, § 12-3207; Acts 1989, No. 793, § 10; 1991, No. 1148, §§ 5, 6; 1993, No. 770, §§ 2-4; 1995, No. 992, §§ 2, 3; 1997, No. 532, § 2; 1997, No. 899, § 10; 1999, No. 1019, § 3; 2001, No. 1461, § 5; 2003 (1st Ex. Sess.), No. 22, § 2; 2005, No. 2198, § 2; 2007, No. 375, § 2; 2009, No. 688, § 9; 2011, No. 1017, § 3.

Amendments. The 2007 amendment rewrote (b)(1)(A)(i); deleted (b)(1)(A)(i)(a) through (b)(1)(A)(i)(d); in (b)(1)(A)(iv), substituted "subdivision (b)(1)(A)(i)" for "subdivisions (b)(1)(A)(i)(a) - (d)" and substituted "the last pay period of the fiscal year" for "June 30"; added (b)(1)(B) and redesignated the remaining subsections accordingly.

The 2009 amendment, in (a), deleted "of the Division of Management Services of

the Department of Finance and Administration" following "Management" in (a) and made a minor stylistic change; rewrote (b) through (d); and added (e) and (f).

The 2011 amendment substituted "Implementation" for "Implementing" in the section heading; deleted former (b); redesignated former (c) through (f) as present (b) through (e); in (b)(1)(A), substituted "2011" for "2010" and "one and eighty-six hundredths percent (1.86%)" for "two and three-tenths percent (2.3%)" ; added (b)(1)(B); substituted "one and eighty-six hundredths percent (1.86%) on July 1, 2011, and the additional salary increase of two and thirty-eight hundredths percent (2.38%) on July 1, 2012" for "two and three-tenths percent (2.3%)" in (b)(2); substituted "one and eighty-six hundredths percent (1.86%) and the July 1, 2012, salary increase of two and thirty-eight hundredths percent (2.38%)" for "two and three-tenths percent (2.3%)" in (b)(4)(A).

21-5-212. Rehired or transferred employees.

(a) When an employee who has been terminated for more than thirty (30) working days returns to state service, the rate of pay for which the rehired employee is eligible shall be established from the last position and shall be calculated as follows:

(1)(A) If returning to the same classification or to the same grade as previously occupied, the employee may return at the same rate of pay within the grade for the classification to which he or she is returning that does not exceed the salary the employee previously earned.

(B) If that salary falls below the lowest entry salary level of the grade or classification, the salary may be adjusted to the lowest entry salary level;

(2)(A) If the employee returns to a different classification of a different grade, the employee's salary will be determined by fixing the salary of the former grade within the grade of the new classification on the appropriate current authorized pay plan.

(B) If the rate of pay falls below the lowest entry salary level of the grade, the salary may be adjusted to the lowest entry salary of the grade;

(3) If a former or transferring employee was previously employed in a position in which a specific line item maximum annual salary was set out in dollars in an appropriation act, the rate of pay for which the employee is eligible may be fixed at a rate within the grade on the appropriate current authorized pay plan for the classification to which he or she is returning or transferring that does not exceed the salary he or she previously earned, and that does not exceed the maximum pay level of the grade, unless the employee qualified for the career pay level on the career service pay plan; and

(4) A former state employee may return as a new employee should this section provide a lower salary than he or she could otherwise receive upon entering state service.

(b) Upon transfer of employment from one (1) agency or institution to another, an employee is to receive a lump-sum payment from the original agency or institution for any overtime that has been accrued and not been paid and for any compensatory time accrued that has not been used at the higher rate of either the:

(1) Average regular rate of pay received by an employee during the last three (3) years of his or her employment; or

(2) Final regular rate of pay received by an employee.

(c) A process to review positions vacated by employees retiring under any state retirement system shall be developed and implemented by the Office of Personnel Management after review of the Personnel Subcommittee of the Legislative Council.

History. Acts 1969, No. 199, § 7; 1971, No. 749, § 2; 1973, No. 873, § 7; 1975, No. 932, § 4; 1979, No. 828, § 4; 1981, No. 650, § 4; A.S.A. 1947, § 12-3207; Acts

1989, No. 793, § 11; 1991, No. 1148, § 7; 2009, No. 688, § 10.

Amendments. The 2009 amendment rewrote the section.

21-5-213. [Repealed.]

Publisher's Notes. This section, concerning employees working late shifts, was repealed by Acts 2011, No. 1017, § 4. The section was derived from Acts 1969, No. 199, § 7; 1969, No. 663, § 1; 1971, No. 749, § 2; 1973, No. 873, § 7; 1975, No. 932, § 4; 1979, No. 828, § 4; 1981, No. 650, § 4; 1985, No. 981, § 5; A.S.A. 1947, § 12-3207; Acts 1989, No. 793, § 12; 2001, No. 1461, § 6.

21-5-214. New appointments and other compensation plan provisions.

(a)(1) A new appointment to a career service position in a state agency or institution covered by this subchapter shall not be at a rate greater than the entry pay level established for the grade of the position unless a rate of pay within the base range is approved as follows:

- (A) The agency or institution director has approved the rate of pay;
- (B) The rate of pay does not exceed the base pay level; and
- (C) The rate of pay is determined under the guidelines established by the Office of Personnel Management.

(2)(A) An agency or institution director may authorize hiring an employee at the entry pay level and may subsequently adjust the employee's salary to the base pay level upon satisfactory performance or other factors established by the agency or institution after approval by the office.

(B) Increases may be given in a single adjustment or in incremental adjustments but shall not exceed the base pay level.

(3) All salary adjustments made at the discretion of the agency or institution director shall be reported to the office and to the Personnel Subcommittee of the Legislative Council within the month following the approval.

(b) A new appointment to a position in a state agency or institution of higher education covered by this subchapter shall not be at a rate of pay greater than the base pay level established for the grade of the position unless a special rate of pay is requested and approved as follows:

(1)(A) A state agency or institution of higher education may request a special rate of pay for either a current or prospective employee within the state agency or institution if:

(i) Prevailing market rates of pay for a specific classification title are such that the state agency or institution is unable to competitively recruit at the base pay level for the grade assigned to that classification;

(ii) An acute shortage of qualified applicants for a specific classification exists;

(iii) The state agency or institution desires to obtain the services of an exceptionally well-qualified applicant for a specific position; or

(iv) To meet any requirements of the Fair Labor Standards Act, 29 U.S.C. § 201 et seq., as it exists on July 1, 2009.

(B)(i) A state agency or institution of higher education may request a special rate of pay for a specific classification due to prevailing

market rates of pay to hire a new employee up to the midpoint pay level of the appropriate grade of a classification on the appropriate pay plan with the written approval of the Chief Fiscal Officer of the State.

(ii) A state agency or institution of higher education may request a special rate of pay for a specific classification due to prevailing market rates of pay to hire a new employee up to the maximum pay level annual rate authorized for the grade assigned to a classification only with the approval of the Chief Fiscal Officer of the State after review by the Personnel Subcommittee of the Legislative Council.

(iii) A special rate of pay shall not be approved under this section unless the classification is properly reviewed and approved as a market rate classification and listed on a register of such classifications maintained by the office.

(iv) The office shall file a report of all such classifications with the Personnel Subcommittee of the Legislative Council within the month following the approval.

(C)(i) If a special rate of pay has been approved for a specific classification due to prevailing market rates of pay or an acute shortage of qualified applicants, current employees within the state agency or institution assigned to the affected classification may be adjusted to the new approved rate of pay by the state agency or institution upon written approval by the Chief Fiscal Officer of the State.

(ii) The office shall file a report of all the employee salary adjustments with the Personnel Subcommittee of the Legislative Council within the month following the approval; or

(2)(A) A state agency or institution may request a special rate of pay for a specific individual applicant due to exceptional qualifications to hire a new employee at a salary level up to and including the midpoint pay level of the appropriate pay grade of a specific position with the written approval of the Chief Fiscal Officer of the State and up to the maximum pay level of the appropriate grade with the approval of the Chief Fiscal Officer of the State after review by the Personnel Subcommittee of the Legislative Council.

(B) This subdivision (b)(2) shall be used only for the hiring of an exceptionally well-qualified employee whose background and experience qualify the applicant to perform the job with very little or substantially less orientation and training than would be the case for a qualified applicant.

(C) Requests by a state agency or institution for a special rate of pay based on an exceptional level of qualifications held by a prospective employee may be approved if the:

(i) State agency or institution has documented to the satisfaction of the Chief Fiscal Officer of the State that no current employee of the affected state agency or institution applied for the position and who was determined by the state agency or institution to not be an equivalent alternative to the exceptionally well-qualified applicant.

The Chief Fiscal Officer of the State shall supply upon request any supporting documentation to the Personnel Subcommittee of the Legislative Council; and

(ii) Prospective employee possesses a level of experience or educational credentials that would permit him or her to perform the duties and responsibilities of the position for which the special rate is being requested with significantly less training and orientation than all other qualified applicants.

(D) The hiring of a new employee under this subdivision (b)(2) shall not affect the salary level or salary eligibility of any existing employee within the state agency or institution.

(E)(i) This section shall apply to both prospective and current state employees.

(ii) This section shall apply only to current employees in positions in which the position has been advertised and the employee has competitively applied for the position by submitting a state application for consideration for the position. Otherwise, employees shall be compensated in accordance with subsection (e) of this section.

(c) If approval has been granted to a requesting state agency or institution for a special rate of pay at or below the midpoint pay level under this section, the Chief Fiscal Officer of the State shall report all approvals monthly to the Personnel Subcommittee of the Legislative Council.

(d) An employee who is compensated at the maximum pay level in a position assigned to the career service pay plan is eligible for salary adjustments authorized in this subchapter as an addition to his or her base salary up to the career pay level if the:

(1) Employee meets or exceeds the eligibility requirements approved by the office after review by the Personnel Subcommittee of the Legislative Council, which shall include at a minimum:

(A) Fifteen (15) cumulative years of full-time equivalent state service that may be in either classified or nonclassified regular positions but not in extra-help positions; and

(B) A performance evaluation rating at or above the satisfactory level for the preceding rating period; and

(2) Additional salary increase does not allow an employee's pay to exceed the career pay level for the position.

(e)(1) An employee promoted on or after July 1, 2009, shall have the maximum annual salary for which he or she is eligible established as follows:

(A) For a promotion to a position of a higher grade on the same pay plan, the employee's maximum rate of pay shall be increased by ten percent (10%); and

(B) For a promotion from a position on the career service pay plan to a position on the professional and executive pay plan, the employee's maximum rate of pay shall be increased by twelve percent (12%).

(2)(A) An employee who upon promotion is receiving a rate of pay below the lowest entrance pay level established for the new grade may be adjusted to that lowest entrance pay level for that grade.

(B) However, an employee's rate of pay upon promotion shall not exceed the maximum pay level of the grade assigned to the classification, unless the employee is eligible for career pay level on the career service pay plan as established in subdivision (d)(1) of this section.

(f)(1) When an employee is demoted for cause or voluntarily solicits a demotion, his or her rate of pay shall be:

(A) Fixed in the lower-graded position at a rate equal to ten percent (10%) less than the employee's rate of pay at the time of demotion for demotions of one (1) or more grades on the career service pay plan or on the professional and executive pay plan; and

(B) At a rate equal to twelve percent (12%) less than the employee's rate of pay at the time of demotion for demotions of one (1) or more grades from a position on the professional and executive pay plan to a position on the career service pay plan.

(2) If the employee's salary falls below the lowest entrance pay level of the new grade upon demotion, his or her salary may be adjusted to that lowest entrance level for that grade.

(3) An employee's rate of pay upon a demotion shall not exceed the amount provided by the maximum pay level of the grade assigned to the classification, unless the employee is eligible for career pay level on the career pay service plan under this section.

(g)(1) An employee who returns to a position in a classification the employee formerly occupied within a twelve-month period after promotion from the classification is eligible for a rate of pay no greater than that for which the employee would have been eligible had the employee remained in the lower-graded classification.

(2) An employee who is placed in a lower-graded position on either compensation plan because the original position has expired due to lack of funding, program changes, or withdrawal of federal grant funds may continue to be paid at the same rate as the employee was being paid in the higher-graded position upon approval of the office after seeking the review of the Personnel Subcommittee of the Legislative Council.

History. Acts 1969, No. 199, § 7; 1969, No. 663, § 1; 1971, No. 749, § 2; 1973, No. 873, § 7; 1975, No. 932, § 4; 1979, No. 828, § 4; 1981, No. 650, § 4; 1985, No. 981, § 6; A.S.A. 1947, § 12-3207; Acts 1989, No. 793, § 13; 1991, No. 1148, §§ 8-11; 1995, No. 992, § 4; 2001, No. 963, § 1; 2001, No. 1461, § 7; 2005, No. 2198, § 3; 2009, No. 688, § 11; 2011, No. 1017, § 5.

Amendments. The 2009 amendment rewrote the section and added "and other compensation plan provisions" to the section heading.

The 2011 amendment deleted "on the professional and executive pay plan or" following "more grades" in (f)(1)(B).

21-5-219. Nonclassified employees.

(a) An employee compensated with the maximum annual salary rate as set out in dollars by law enacted by the General Assembly for a department, board, commission, or state agency is eligible to receive an additional salary increase of two percent (2%) each fiscal year, provided

that the Chief Fiscal Officer of the State determines that sufficient general revenues become available.

(b) A nonclassified employee compensated at the highest pay rate authorized for his or her position shall be eligible to receive the salary increase authorized in this section, but the increase shall be paid as a lump sum on the last pay period of the fiscal year of the year in which the increase is to occur.

(c) Lump-sum payments made under this section shall not be construed as exceeding the maximum salary.

History. Acts 1997, No. 532, § 3; 1999, No. 1019, § 4; 2001, No. 1461, § 11; 2003 (1st Ex. Sess.), No. 22, § 3; 2009, No. 688, § 12; 2011, No. 1017, § 6.

Amendments. The 2009 amendment

rewrote (a) and (b); and added (c) through (e).

The 2011 amendment deleted former (a) and (b) and redesignated former (c) through (e) as present (a) through (c).

21-5-220. Shift differential.

(a)(1) Upon the approval of the Office of Personnel Management, an employee whose working hours do not conform to normal state business hours shall be eligible for additional compensation up to twelve percent (12%) of the hourly rate for which he or she is eligible under this subchapter as a shift differential if:

(A) The agency or institution routinely schedules more than one (1) work shift per day;

(B) The shift to which the employee is assigned is a full work shift; and

(C) The employee is regularly assigned to the late shift or is assigned to the shift on a regularly scheduled rotating basis.

(2) An employee assigned to an evening shift shall not receive additional compensation that exceeds six percent (6%) above that for which he or she is eligible under this subchapter.

(3) An employee assigned to a night shift shall not receive additional compensation that exceeds twelve percent (12%) above that for which he or she is eligible under this subchapter.

(4)(A) An employee at or near the maximum authorized salary level for the grade assigned to his or her classification may be compensated at an additional rate not to exceed twelve percent (12%) of his or her eligible salary under this subchapter.

(B) In those instances in which the granting of the additional compensation has the effect of temporarily exceeding the maximum annual rate for the grade assigned to the employee's classification, the additional compensation shall not be considered as exceeding the maximum allowable rate for that grade.

(b)(1) A person employed in areas providing critical support, custody, and care to designated client service units at state-operated inpatient hospital facilities, at state-operated human development centers, and at maximum security units at correctional facilities during weekend hours is eligible to receive up to twenty percent (20%) of the hourly rate

for which he or she is eligible under this subchapter paid as a shift or weekend differential.

(2) Designated weekend hours begin no earlier than 2:30 p.m. on Friday and end no later than 8:00 a.m. on the following Monday.

(c)(1) If a facility uses shifts other than traditional eight-hour shifts, a shift differential may be paid for those shifts exceeding the normal day shift of the facility.

(2) If shift and weekend differentials are provided to an employee, the total compensation may exceed the maximum annual rate for the assigned pay grade for those positions included in this subchapter.

(3)(A) The agency or institution shall identify the shifts, job classifications, and positions to be eligible for the shift differential and the differential percentage for which each classification is eligible within each shift.

(B) The shift schedule, job classifications, positions, and the percentage of shift differential for which the job titles will be eligible shall be submitted to the office for approval by the Chief Fiscal Officer of the State.

(C) Subsequent changes to the shift schedule, job classifications, positions, and shift differential percentages shall receive prior approval by the Chief Fiscal Officer of the State.

(d) An employee who is receiving additional compensation under this section and then is reassigned to a normal shift shall revert on the day of the reassignment to the rate of pay for which he or she is eligible under this subchapter.

(e) The office shall report all shift differential approvals to the Personnel Subcommittee of the Legislative Council.

History. Acts 2009, No. 688, § 13; 2011, No. 1017, § 7.

Amendments. The 2011 amendment added "work shift; and" in (a)(1)(B); deleted (a)(1)(B)(i) and (ii); substituted "shall" for "may" in (a)(2) and (3); and substituted "Subcommittee" for "Committee" in (e).

21-5-221. Compensation differentials.

(a) To address specific employee compensation needs not otherwise provided for in this subchapter, a state agency or institution may pay additional compensation for current employees in specific positions or for classifications of positions assigned to a compensation plan authorized by the General Assembly for one (1) or more compensation differentials.

(b)(1) Authorization for one (1) or more compensation differentials may be approved if the:

(A) Agency or institution has documented the need for a compensation differential for specified positions or classifications;

(B) Agency or institution submits a plan of the terms and conditions for eligibility that must directly address the needs of the targeted positions or classifications for any requested compensation differential;

(C) Cost of implementing and maintaining a compensation differential is within the agency's or institution's existing appropriation and shall not be implemented using funds specifically set aside for other programs within the agency or institution; and

(D) Compensation differential plan has been approved by the Office of Personnel Management after review by the Personnel Subcommittee of the Legislative Council.

(2) Any compensation differential authorized under this section shall be renewed each fiscal year.

(3) The cumulative total of any compensation differentials paid to an employee shall not exceed twenty-five percent (25%) of the employee's base salary.

(c)(1) Hazardous duty differential of up to six percent (6%) may be authorized for the increased risk of personal physical injury for an employee occupying a certain identified high-risk position if the:

(A) Position classification is determined to be physically hazardous or dangerous due to location, facility, services provided, or other factors directly related to the duty assignment of the positions; and

(B) Employee's regularly assigned work schedule exposes him or her to clear, direct, and unavoidable hazards during at least fifty percent (50%) of the work time and the employee is not compensated for the hazardous exposure.

(2)(A) The director of the requesting agency or institution shall identify the facility or unit, location, and eligible positions and classifications within the facility or unit that are identified as high-risk.

(B) The positions shall be certified by the agency or institution director as having been assigned to a work environment that poses an increased risk of personal injury and shall be submitted as part of the plan for payment of hazardous duty differential to the office for approval by the Chief Fiscal Officer of the State after review and approval of the Personnel Subcommittee of the Legislative Council.

(C) Subsequent changes to the facility or unit, location, and eligible positions or classifications within the facility or unit on file with the office shall receive prior approval by the Chief Fiscal Officer of the State after review and approval by the Personnel Subcommittee of the Legislative Council.

(d) If the granting of the additional hazardous duty compensation has the effect of temporarily exceeding the maximum annual rate for the grade assigned to the employee's classification, the additional compensation shall not be considered as exceeding the maximum allowable rate for that grade.

(e) It is the intent of this subsection that hazardous duty compensation shall be at the discretion of the Chief Fiscal Officer of the State and the director of the agency or institution and shall not be implemented using funds specifically set aside for other programs within the agency or institution.

(f) An employee who receives additional hazardous duty compensation under this section and then is reassigned to normal duty shall

revert on the day of the reassignment to the rate of pay for which he or she is eligible under this subchapter.

(g) An additional six percent (6%), but not to exceed a total of twelve percent (12%), hazardous duty differential may be authorized for employees occupying positions assigned to a maximum security unit or facility if the regularly assigned work schedules expose employees at least eighty-five percent (85%) of the work time to clear, direct, and unavoidable hazards from clients, inmates, or patients who are in units or facilities that are classified as maximum security.

(h) An employee who is receiving additional compensation for hazardous duty and then is reassigned to normal duty shall revert on the day of the reassignment to the rate of pay for which he or she is eligible under this subchapter.

(i)(1) A professional certification differential of up to six percent (6%) for job-related professional certifications for individual positions or for specific classifications within an agency or institution may be authorized if the certification is:

(A) From a recognized professional certifying organization and is determined to be directly related to the predominant purpose and use of the position or classification; and

(B) Not included as a minimum qualification established or as a special requirement for the classification by the official class specification.

(2)(A) A professional certification differential may be paid only while the certification is current and maintained by the employee and while employed in a position or classification covered by the plan.

(B) Documentation of continuation or renewal of the certification of the employee is required for continuation of the certification differential.

(j) An education differential of up to six percent (6%) for job-related education for individual positions or for specific classifications within an agency or institution may be authorized if:

(1) Attainment of additional education is from an accredited institution of higher education, documented by official transcript, certificate, or degree award, and directly related to the predominant purpose and use of the position or classification; and

(2) The education to be compensated is not included as a special requirement or minimum qualification established for the classification by the official class specification.

(k) A geographic area differential of up to six percent (6%) may be authorized to address the documented inability to recruit and retain certain employees in a specific geographic area of the state if the additional geographic area differential is based on documented recruitment, turnover, or other competitive pay issue in a specific geographic area but that does not justify a statewide labor market special entry rate.

(l)(1) A second language differential of up to ten percent (10%) may be authorized for an employee who has the demonstrated ability and

skill to communicate in a language other than English, including American Sign Language, and that skill is determined by the agency or institution to be directly related to the effective performance of the job duties for the position occupied by the employee.

(2) If the granting of the additional compensation would have the effect of exceeding the maximum or the career pay level for the grade assigned to the employee's classification, the additional compensation shall not be considered as exceeding the maximum allowable rate for that grade.

(3) An employee who receives additional compensation under this section and who moves into a position that does not need the skill to communicate in a language other than English shall revert on the effective date of the change to the rate of pay that the employee would otherwise receive.

(m)(1) On-call duty or standby duty differential may be authorized for an employee whose job requires him or her to provide services on nights, weekends, or holidays or other situations when the agency or institution does not have regularly scheduled staff coverage.

(2) On-call duty or standby duty differential is to be used for officially scheduled duty outside regular work hours during which an employee is required to be accessible by telephone, pager, or other means and must return to the designated work site upon notification of need within a specified response time.

(3)(A) An employee who is required to be available for duty on nights, weekends, and holidays will be eligible to receive on-call or standby duty pay equivalent of an hourly rate not to exceed twenty percent (20%) of his or her base hourly pay rate for each on-call or standby hour for not more than forty-eight (48) hours during any seven-day work period.

(B)(i) Compensation shall not be paid to any employee required to be on-call and standby who fails to respond after the second notification that his or her services are needed.

(ii) If the equipment or paging device malfunctions, the penalty shall not apply.

(C)(i) An employee on on-call or standby duty who is called in to work shall be compensated for the actual hours worked at the appropriate rate of pay with a minimum of two (2) hours for each call back.

(ii) The employee shall not be paid on-call or standby pay for hours actually worked during a call back.

(D) If on-call or standby pay is provided to an employee, the total compensation may exceed the maximum salaries for the position.

History. Acts 2009, No. 688, § 13.

A.C.R.C. Notes. Acts 2011, No. 1078, § 44, provided: "ON CALL COMPENSATION. On-call duty or standby duty differential may be authorized for a Classified or Non-Classified patient care

employee whose job requires him or her to provide services when there is no regularly scheduled staff coverage. An employee shall not exceed 128 hours during any seven-day period, at rates of pay not to exceed those provided in the Uniform

Classification and Compensation Act, or its successor, or this act for the appropriate compensation.

"The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012."

21-5-222. Salary administration grids.

(a)(1) A state agency or institution may request that a salary administration grid be approved for specific classifications of positions assigned to the career service compensation plan if the:

(A) State agency or institution has documented the need for a salary administration grid for specified positions or classifications;

(B) Terms and conditions of a grid proposed by the agency or institution address the needs of the targeted positions;

(C) Cost of implementing and maintaining a salary administration grid is within the agency's or institution's existing appropriation and the implementation does not use funds specifically set aside for other programs within the agency or institution; and

(D) Salary administration grid has been approved by the Chief Fiscal Officer of the State after review by the Personnel Subcommittee of the Legislative Council.

(2)(A) Special salary rates may be authorized up to the maximum pay level authorized for the grade assigned the classification of a career service position for specific classifications only.

(B) An approved salary administration grid shall be used for establishing a starting salary for an employee in an individual position.

(C) A person hired above the entry pay level shall meet or exceed the minimum qualifications for the job classification.

(D) Subsequent salary determinations within a salary administration grid shall be based on the employee's qualifications, relevant competitive compensation rates, professional or education achievements, and internal equity within the agency or institution.

(E) A plan of implementation and salary progression must be approved by the Office of Personnel Management on a biennial basis.

(3) An approved grid may be amended only upon approval by the office after review by the Personnel Subcommittee of the Legislative Council.

(4) Compensation differentials that are included in an agency or institution's grid plan may not exceed rates provided in § 21-5-221.

(b)(1) A monthly report shall be made to the Personnel Subcommittee of the Legislative Council describing all personnel transactions involving applications of this section.

(2) The hiring of a new employee under this section shall not affect the salary level or salary eligibility of any existing employee within the state agency or institution.

(3) The office shall promulgate rules regarding the implementation and use of a salary administration grid with the review of the Personnel Subcommittee of the Legislative Council.

History. Acts 2009, No. 688, § 13.

21-5-223. Severance pay.

(a) If the agency or institution director determines that it is necessary to implement the state workforce reduction policy due to agency or institution organization structure change, budgetary reductions, abolishment of positions or duties, loss of functional responsibility by the agency, or the loss of federal funding, grants, or other special funds, the agency or institution director, upon approval by the Chief Fiscal Officer of the State, may authorize the payment of funds on a regular payroll schedule as severance pay to full-time, part-time, and job sharing classified and nonclassified employees in regular positions affected by the workforce reduction on the basis of the following pro rata lump sum for completed years of service, including any formally implemented probationary period:

Over one (1) year up to five (5) years	Eight hundred dollars (\$800)
Over five (5) years up to fifteen (15) years	One thousand two hundred dollars (\$1,200)
Over fifteen (15) years	One thousand six hundred dollars (\$1,600)

(b) These payments shall be in addition to the lump-sum payments allowed under the Uniform Attendance and Leave Policy Act, § 21-4-201 et seq.

(c) The severance payments shall not be construed as exceeding the maximum salary.

(d) The agency or institution director shall file a notice of the anticipated implementation of the workforce reduction policy and of the lump-sum severance payments to be made under the state workforce reduction policy with the Personnel Subcommittee of the Legislative Council.

History. Acts 2009, No. 688, § 13.

21-5-224. Extra help positions.

(a)(1) A position authorized as extra help in an agency or institution shall be assigned an authorized career service classification or a professional and executive classification by the agency or institution, and any person hired in an extra help position shall meet the minimum qualifications and any other requirements set by the official class specification of the classification assigned to the position.

(2) The rates of pay for extra help employees shall be set in accordance with and shall not exceed those provided in this subchapter, or its successor, for the appropriate classification.

(3) Extra help employees of agencies may not exceed one thousand (1,000) hours per fiscal year as set out in § 19-4-521.

(4) Extra help employees of institutions of higher education may not exceed one thousand five hundred (1,500) hours per fiscal year as set out in § 6-63-314.

(b) The salary eligibility for an employee transferring or returning from an extra help position to a regular position shall be established at the minimum entrance rate of pay for the grade of the assigned classification with the following exceptions:

(1) The classification has an established current labor market special entry rate;

(2) The position is approved for shift differential in accordance with this subchapter;

(3) The employee's eligibility is based on prior state service in a regular position; or

(4) A base range salary has been approved under § 21-5-214(a)(1).

(d) A former employee from a state agency, institution, board, or commission who is rehired in an extra-help position is ineligible for benefits except holiday pay.

History. Acts 2009, No. 688, § 13; inserted "classification or a professional and executive" in (a)(1).
2011, No. 1017, § 8.

Amendments. The 2011 amendment

21-5-225. Position pools.

(a)(1) There is established a pool of two hundred fifty (250) career service positions at grade C130 and one hundred fifty (150) professional and executive positions at grade N922 assigned to the Office of Personnel Management to be used to reclassify positions in state agencies and institutions to the proper classification and grade if the state agency or institution does not have a vacant position available with the appropriate classification and grade.

(2)(A) Positions authorized as career service positions may not be reclassified as professional and executive classifications utilizing these pool positions.

(B) Positions authorized as professional and executive classifications may not be reclassified into career service classifications utilizing these pool positions.

(3) To obtain a position from the pool, a state agency or institution must surrender to the pool the position being reclassified.

(4) The office shall review all requests and may grant approval of the reclassification after review by the Personnel Subcommittee of the Legislative Council.

(5) No position established under this section shall exceed a salary rate in excess of the highest rate established by grade in the requesting agency's or institution's appropriation act.

(b)(1) The office shall establish and maintain a central growth pool of two hundred (200) career service positions at grade C130 and one hundred (100) professional and executive positions at grade N922 to be used to establish additional positions in state agencies of the proper classification and grade when the state agency does not have sufficient

positions available with the appropriate classification and grade to meet an agency's mandated responsibilities.

(2) Central growth pool positions are to be used by the state agencies if the personnel service needs exceed the number of positions in a classification authorized by the General Assembly and were not anticipated at the time of the passage of the agency's operating appropriation act.

(3) No position established under this section may exceed a salary rate in excess of the highest rate established by grade in the requesting agency's appropriation act.

(4) The agency shall provide justification to the office for the need to allocate positions from the central growth pool.

(5) Titles shall not be assigned to the agency from the central growth pool until specific positions are requested by the agency, recommended by the office, and reviewed by the Personnel Subcommittee of the Legislative Council.

(6) If the new classifications are necessary for any of these additional positions, the office may assign the appropriate title and grade after review by the Personnel Subcommittee of the Legislative Council.

(7) If an agency requests any central growth pool position to be continued during the subsequent fiscal year, the position must be requested as a new position in the agency's subsequent fiscal year budget request.

(c)(1) The office shall establish and maintain a temporary transition pool of twenty-five (25) career service positions at grade C130 and twenty-five (25) professional and executive positions at grade N922 to be used to establish additional temporary positions in state agencies of the proper classification and grade if the state agency does not have sufficient positions available with the appropriate classification and grade to address organizational transition issues such as succession planning or other changes in agency administration.

(2) Temporary transition pool positions are to be used by state agencies only if the personnel service needs exceed the number of positions in a classification authorized by the General Assembly and were not anticipated at the time of the passage of the agency's operating appropriation act.

(3) A position established under this section shall not exceed a salary rate in excess of the highest rate established by grade or by line item in the requesting agency's appropriation act.

(4) No position shall be authorized to the agency from the temporary transition pool until the specific positions are requested by the agency, recommended by the office, and reviewed by the Personnel Subcommittee of the Legislative Council.

(5) Temporary transition pool positions shall be authorized for not more than one hundred eighty (180) calendar days in a fiscal year and may not be renewed or extended.

(d) [Repealed.]

History. Acts 2009, No. 688, § 13; 2011, No. 1017, § 9.

Amendments. The 2011 amendment repealed (d).

SUBCHAPTER 3 — SUPPLEMENTAL PERSONAL SERVICES

SECTION.

21-5-301 — 21-5-310. [Repealed.]

21-5-301 — 21-5-310. [Repealed.]

Publisher's Notes. This subchapter was repealed by Acts 2011, No. 1116, § 1. The subchapter was derived from the following sources:

21-5-301. Acts 1977, No. 673, § 5; 1981, No. 741, § 5; A.S.A. 1947, § 12-3209n.

21-5-302. Acts 1977, No. 673, § 1; A.S.A. 1947, § 12-3209.

21-5-303. Acts 1977, No. 673, § 7; A.S.A. 1947, § 12-3209n.

21-5-304. Acts 1977, No. 673, § 3; A.S.A. 1947, § 12-3209n.

21-5-305. Acts 1977, No. 673, § 1; A.S.A. 1947, § 12-3209n.

21-5-306. Acts 1977, No. 673, § 5; 1981, No. 741, § 5; A.S.A. 1947, § 12-3209n.

21-5-307. Acts 1977, No. 673, § 2; A.S.A. 1947, § 12-3209n.

21-5-308. Acts 1977, No. 673, § 3; A.S.A. 1947, § 12-3209n.

21-5-309. Acts 1977, No. 673, § 4; A.S.A. 1947, § 12-3209n.

21-5-310. Acts 1977, No. 673, § 6; 1981, No. 741, § 6; A.S.A. 1947, § 12-3209n; Acts 2009, No. 962, § 41.

SUBCHAPTER 4 — STATE AND PUBLIC SCHOOL LIFE AND HEALTH INSURANCE BOARD

SECTION.

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SECTION.

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21-5-415. Nonpayment of premiums and failure to file reports by agency or school district.

21-5-417. State contribution for employee receiving workers' compensation.

A.C.R.C. Notes. Acts 2011, No. 855, § 1, provided: "Legislative Findings. "The General Assembly finds that:

"(1) Morbid obesity causes many medical problems and costly health complications, such as diabetes, hypertension, heart disease, and stroke;

"(2) The cost of managing the complications of morbid obesity, largely due to inadequate treatment, far outweighs the

cost of expeditious, effective medical treatment;

"(3) Guidelines developed by the National Institutes of Health, the American Society for Bariatric Surgery, the American Obesity Association, and Shape Up America and embraced by the American Medical Association and the American College of Surgeons recommend that patients who are morbidly obese receive re-

sponsible, affordable medical treatment for their obesity; and

“(4) The diagnosis and treatment of morbid obesity should be a clinical decision made by a physician based on evidence-based guidelines.”

Acts 2011, No. 855, § 2, provided: “Definitions. As used in this subchapter:

“(1) ‘Body mass index’ means body weight in kilograms divided by height in meters squared; and

“(2)(A) ‘Morbid obesity’ means a weight that is at least two (2) times the ideal weight for frame, age, height, and gender of an individual as determined by an examining physician.

“(B) Morbid obesity may be measured as a body mass index:

“(i) Equal to or greater than thirty-five kilograms per meter squared (35 kg/m²) with comorbidity or coexisting medical conditions such as hypertension, cardiopulmonary conditions, sleep apnea, or diabetes; or

“(ii) Greater than forty (40) kilograms per meter squared (40 kg/m²).”

Acts 2011, No. 855, § 3, provided: “Pilot Program on coverage for morbid obesity diagnosis and treatment.

“(a)(1) A state and public school employees health benefit plan that is offered, issued, or renewed on or after January 1,

2012, shall offer coverage for the diagnosis and treatment of morbid obesity.

“(2) The coverage for morbid obesity offered under subdivision (a)(1) of this section includes without limitation coverage for bariatric surgery including:

“(A) Gastric bypass surgery;

“(B) Adjustable gastric banding surgery;

“(C) Sleeve gastrectomy surgery, and

“(D) Duodenal switch biliopancreatic diversion.

“(b) A state and public school employees health benefit plan shall offer the benefits under this section to the same extent as for other medically necessary surgical procedures under the enrollee’s or insured’s contract or policy with the entity.

“(c) The coverage for morbid obesity diagnosis and treatment offered under this subchapter does not diminish or limit benefits otherwise allowable under a state and public school employees health benefit plan.”

Acts 2011, No. 855, § 4, provided: “Rules. The State and Public School Life and Health Insurance Board shall adopt rules to implement this subchapter.”

Acts 2011, No. 855, § 5, provided: “This act shall become null and void and cease to have any effect at midnight on December 31, 2017.”

21-5-401. Legislative intent.

It is the purpose of this subchapter to:

(1) Create a single board to select health insurance and life insurance plan coverages for state and public school employees and retirees;

(2) Develop self-funded health programs to enhance the ability to control premiums and utilize managed care capabilities if feasible and in the best interest of plan members; and

(3) Enable a single board to:

(A) Set and manage policies for the health insurance and life insurance programs of state and public school employees;

(B) Work in a concerted effort toward a common goal of parity between public school and state employee insurance programs;

(C) Improve the quality of health care services under the programs;

(D) Increase participants’ understanding of program features; and

(E) Slow the rate of growth in health care expenses under the programs.

History. Acts 1995, No. 1206, § 1; 1999, No. 1280, § 1; 2007, No. 1009, § 1.

Amendments. The 2007 amendment rewrote the section.

21-5-402. Members.

(a)(1) There is created the State and Public School Life and Health Insurance Board, composed of the following twelve (12) voting members:

(A) A state employee who is eligible to participate in the insurance program under this subchapter to be appointed by the Governor;

(B) A certified classroom teacher to be appointed by the Governor;

(C) The Insurance Commissioner or his or her designee;

(D) The Commissioner of Education or his or her designee;

(E) The Director of the Department of Finance and Administration or his or her designee;

(F) One (1) member who is engaged in employee benefits management or risk management in private industry to be appointed by the Governor;

(G) Two (2) additional member positions that shall be filled by a retired teacher and by a retired state employee appointed by the Governor;

(H) One (1) public school administrator to be appointed by the Governor;

(I) The Executive Director of the Arkansas State Board of Pharmacy or his or her state employee pharmacist designee;

(J) The Director of Health Facility Services of the Department of Health or his or her designee; and

(K) One (1) member who is a licensed health care provider appointed by the Governor.

(2) However, any appointee who has a conflict of interest shall be disqualified to serve.

(b)(1) All members appointed by the Governor shall be appointed for terms of four (4) years but may be reappointed for additional terms.

(2)(A) Vacancies in the Governor-appointed positions shall be filled by appointment of the Governor for the unexpired term.

(B) Members appointed by the Governor shall serve at the will of the Governor.

(c) A chair and vice chair of the board shall be selected annually by and from the membership of the board and shall serve no more than two (2) years.

History. Acts 1995, No. 1206, §§ 2, 3; 1997, No. 633, § 1; 1999, No. 1280, § 2; 2003, No. 1446, § 1; 2007, No. 1009, § 2.

Amendments. The 2007 amendment inserted "who is eligible to participate in the insurance program under this subchapter" in (a)(1)(A); substituted "One (1) member who is" for "Two (2) members who

are" in (a)(1)(F); in (a)(1)(G), substituted "Two (2)" for "One (1)" and "positions" for "position," deleted "alternately" following "filled," and deleted the former second sentence; deleted former (b)(1)(A); redesignated former (b)(1)(B) as present (b)(1); and deleted "successor" preceding "members" in (b)(1).

21-5-403. Policy-making body only — Reports.

(a) The State and Public School Life and Health Insurance Board shall be a policy-making body only.

(b) The executive director shall report upon request to the House Committee on Insurance and Commerce and the Senate Committee on Insurance and Commerce regarding the state and public school employees and retirees insurance program.

History. Acts 1995, No. 1206, § 8; substituted “state and public school employees and retirees” for “state employees and public school personnel” in (b).
1997, No. 183, § 3; 1999, No. 1280, § 3;
2007, No. 1009, § 3.

Amendments. The 2007 amendment

21-5-404. Powers — Functions — Duties.

The State and Public School Life and Health Insurance Board shall have the following powers, functions, and duties:

(1) To explore various cost-containment measures and funding options;

(2) To promote competition among vendors and create a systematic formula for measuring competitiveness of programs, quality-of-care delivery, portability, and accessibility to and affordability of health care;

(3) To prepare a comprehensive analysis of the various health benefit plan options approved by the board to provide coverage to state and public school employees and retirees, including cost, quality, and access differentials among the various plans as well as any other comparisons of the plans;

(4) To undertake studies and to take any appropriate action that the board determines will promote the financial soundness and overall well-being of the members’ health insurance programs;

(5) To establish and set penalties as allowed under § 21-5-415;

(6)(A) To develop, with the assistance of the Office of State Procurement of the Department of Finance and Administration, bid specifications and requests for proposals and to evaluate bids and proposals.

(B) However, the board shall allow the office to execute all other actions relating to the purchasing procedures in contracting for consultants, third party administrators, providers, or insurance companies on behalf of the programs;

(7) To evaluate responses to requests for proposals, select contractors for all services, and approve the award of contracts resulting from bids for all health and life insurance offerings for participants;

(8) To perform plan design, summarize plan document approval, including, but not limited to, lifetime limitations, copayments, deductibles, and eligibility rules;

(9) To promote increased access to various health plan options and models;

(10)(A) To direct the office to contract with qualified vendors, as defined by the board, offering the benefit plans prescribed by the

board without regard to § 19-11-228 or other statutes requiring competitive bidding.

(B) Each contract shall be for a term of at least one (1) year but may be made automatically renewable from term to term in the absence of notice of termination by either party;

(11)(A) To obtain quality-of-care information from systems, networks, hospitals, and clinical providers to inform plan design, plan management, and consumer decisions.

(B) The board shall:

(i) Use accepted national standards for assessment of quality-of-care information provided by systems, networks, hospitals, and clinical providers;

(ii) Be empowered to determine the appropriate use of quality-of-care information and scope of system, network, hospital, and clinical provider accountability;

(iii) Be empowered to request aggregate performance information for patients; and

(iv) Be empowered to publicly report conclusions of quality-of-care assessment; and

(12) To appoint three (3) subcommittees of the board to study and research health and life plan option benefits, formulary management, quality of care provided, and the financial impact of implementing the recommendations made to the board as follows:

(A)(i) The Benefits Subcommittee shall consist of:

(a) Three (3) board members;

(b) Two (2) state employees; and

(c) Two (2) school district employees.

(ii) The Benefits Subcommittee shall review, evaluate, and investigate benefits, new benefit offerings, and annual insurance rates;

(B)(i) The Drug Utilization and Evaluation Subcommittee shall consist of:

(a) Three (3) pharmacists as follows:

(1) The Executive Director of the Arkansas State Board of Pharmacy or his or her pharmacist designee;

(2) The Dean of the University of Arkansas for Medical Sciences College of Pharmacy or his or her pharmacist designee; and

(3) A pharmacist selected by the Arkansas Pharmacists Association;

(b) Four (4) physicians as follows:

(1) The Dean of the University of Arkansas for Medical Sciences College of Medicine or his or her physician designee;

(2) The Associate Medical Director of the University of Arkansas for Medical Sciences Medical Center or his or her physician designee;

(3) The Medical Director of the Arkansas Poison & Drug Information Center or his or her physician designee; and

(4) A physician selected by the Arkansas Medical Society;

(c) One (1) registered nurse who is the Dean of the University of Arkansas for Medical Sciences College of Nursing or his or her registered nurse designee; and

(d) One (1) state employee and one (1) public school employee appointed by the board, each of whom shall have expertise in accounting, finance, auditing, or insurance.

(ii) The Drug Utilization and Evaluation Subcommittee shall review drugs for formulary management and evaluate the financial impact of its recommendations; and

(C)(i) The Quality of Care Subcommittee shall consist of:

- (a) Three (3) board members;
 - (b) Two (2) state employees;
 - (c) Two (2) school district employees;
 - (d) One (1) representative from the Arkansas Foundation for Medical Care;
 - (e) One (1) representative from the Arkansas Pharmacists Association;
 - (f) One (1) representative from the Arkansas Center for Health Improvement;
 - (g) One (1) representative from the Arkansas Medical Association;
 - (h) One (1) representative from the Arkansas Osteopathic Medical Association; and
 - (i) One (1) representative from the Arkansas Hospital Association.
- (ii) The Quality of Care Subcommittee may review and recommend quality performance indicators for use, recommend baseline performance goals, recommend alignment of financial incentives to improve performance, and track improvements in delivery of care.

History. Acts 1995, No. 1206, § 4; 1999, No. 1280, § 4; 2003, No. 1446, § 2; 2005, No. 1308, § 1; 2005, No. 1937, § 1; 2007, No. 1009, § 4.

A.C.R.C. Notes. Acts 2005, No. 1308, § 1 amended this section to specifically repeal the provisions of the section regarding the Fiscal Subcommittee of the State and Public School Life and Health Insurance Board.

Amendments. The 2007 amendment, in (3), inserted “and retirees” and deleted

“as will enable the state and school employees to make a well-informed choice of plans”; substituted “members” for “state employee and public school personnel” in (4); added (5) and redesignated the remaining subsections accordingly; deleted “of the various plans” following “participants” in (7); in (10)(A), deleted “all” preceding “qualified” and deleted “health” preceding “benefit”; deleted “uniform” preceding “term” in (10)(B); and made related and stylistic changes.

21-5-405. Additional duties.

(a) The State and Public School Life and Health Insurance Board and the executive director shall take a risk management approach in designing the state and public school employees and retirees benefit programs. The board shall ensure that the state and public school employees and retirees benefit programs are maintained on an actuarially sound basis as determined by actuarial standards established by the board.

- (b) In addition to the objectives stated in § 21-5-404, the board shall:
 - (1) Develop uniform standards of vendor plan funding;
 - (2) Promote increased access to various plan options and health care models;

(3) Promote access to those vendors who will enhance plan options availability in rural Arkansas and in bordering states;

(4)(A) Utilize the combined purchasing power of the state employee and public school personnel programs to foster competition among vendors and providers for the programs.

(B) Any state agency or school district that accepts state funds intended to partially defray the cost of health and life insurance for the employees of the state and public schools shall:

(i) Use those funds only for the state and public school employees health benefit plans sponsored by the board; and

(ii) Agree to rules of participation as stated in the policies adopted by the board and as defined in the regulations and procedures issued by the Executive Director of the Employee Benefits Division of the Department of Finance and Administration, including, but not limited to, timely eligibility reporting, prepayment of insurance premiums, actuarial adjustment for new enrollees, and any other requirements deemed necessary by the board;

(5) Assure guaranteed issue; and

(6) Ensure an annual enrollment period.

(c) Benefit plan vendors are required to provide detailed information in order to justify rate increases or inadequate performance reporting as defined by the board.

History. Acts 1995, No. 1206, § 5; 1997, No. 1295, § 1; 1999, No. 1280, § 5; 2007, No. 1009, § 5.

Amendments. The 2007 amendment substituted "state and public school employees and retirees" for "state employee and public school personnel health" twice in (a); deleted "so as to avoid windfall profits resulting from fully insured non-

dividend paying funding arrangements" following "funding" in (b)(1); in (b)(3), deleted "managed care by giving preferential treatment, if required, to" preceding "those" and added "and in bordering states"; rewrote (b)(4)(B); deleted "of all plans" following "issue" in (b)(5); deleted "under all plans" following "period" in (b)(6); and added (c).

21-5-406. Executive director — Staff.

(a)(1) The State and Public School Life and Health Insurance Board shall choose an executive director with the approval of the Director of the Department of Finance and Administration.

(2) The executive director shall be employed by and serve at the pleasure of the Director of the Department of Finance and Administration. However, the board may recommend the removal of the executive director, but removal shall be subject to the approval of the Director of the Department of Finance and Administration.

(3) The executive director shall employ staff adequate to manage the program within the funds appropriated therefor within the Department of Finance and Administration.

(b) The executive director shall establish internal controls for the fiscal management of the health and life insurance plans.

(c)(1) The executive director and his or her staff shall be located in the Employee Benefits Division of the Department of Finance and Administration.

(2) Premiums collected from employers, participating employees, and retirees for health and life insurance plans shall be collected one (1) month in advance and shall be used solely to pay medical claims, premiums, and direct administrative expenses of the health and life insurance programs.

(d) The executive director shall be charged with the duty of administering the provisions of this subchapter and the rules, regulations, and orders of the division and the board.

(e)(1) The executive director may require all participating entities to appoint health insurance representatives, who will be required to adhere to the policies adopted by the board and the regulations and procedures issued by the Executive Director of the Employee Benefits Division of the Department of Finance and Administration in managing the enrollment and premium payment processes of the agency or school district.

(2) The executive director may request the removal of a representative to ensure necessary internal controls.

(3)(A) The executive director shall have the authority to supervise the implementation and day-to-day management of the health insurance programs and other employee benefit programs, plans, and individual and group policies made available to state and public school employees, if applicable.

(B) This may include, but not be limited to:

- (i) Life insurance coverage;
- (ii) Accident coverage;
- (iii) Dental coverage;
- (iv) Disability benefit programs;
- (v) Optional retirement programs;
- (vi) Deferred compensation;
- (vii) Cafeteria plans; and

(viii) Such other benefit plans, benefit programs, and individual and group benefit coverage that are offered from time to time to members.

(C) This authority shall not include the State Employee Benefit Corporation benefit plan which is in effect on July 1, 1995.

(D) In addition, the executive director and the board may utilize the services of health care consultants and actuaries if necessary as provided for through the appropriation of the division.

(E) The Arkansas State Police Employee Health Plan shall be exempt from any mandatory participation required by this section.

History. Acts 1995, No. 1206, §§ 7, 8; 1999, No. 1280, § 6; 2001, No. 1814, §§ 1, 4; 2007, No. 1009, § 6.

Amendments. The 2007 amendment added (b); inserted "shall be collected one

(1) month in advance and" in (c)(2); added (e); substituted "state and public school employees, if applicable" for "public school employees and state employees" in (e)(3)(A); substituted "coverage" for "cov-

erages" in (e)(3)(B)(i) through (e)(3)(B)(iii); school employees and state employees" in and substituted "members" for "public (e)(3)(B)(viii).

21-5-407. Definitions.

As used in this subchapter:

(1) "Aggregate performance information" means a report or other means of communication about the measurement of accomplishment of the execution of certain tasks, achievement of certain results, or occurrence of certain events related to all patients or to a class or group of patients identifiable by certain criteria;

(2)(A) "Alternate retirement plan retiree" means a retiree in an alternate retirement plan as defined in § 24-7-801 of a certain institution whose employer does not contribute to the State or Public School Health Insurance Plan during his or her active employment.

(B) Further, an "alternate retirement plan", for the purposes of this section, is a defined contribution plan allowed under the Internal Revenue Service regulations and allowed but not created by Arkansas state law;

(3) "Dependent" means any member of an employee's or retiree's family who meets the eligibility for coverage under the health benefit plans approved by the State and Public School Life and Health Insurance Board;

(4) "Dual eligibility" means simultaneous participation as an employee, dependent, or retiree in the multiple programs offered by the Employee Benefits Division;

(5) "Eligible inactive retiree" means a former member of the General Assembly or a state-elected constitutional officer who has served a sufficient number of years of credited service to be eligible for retirement benefits but who has not yet reached retirement age. Eligible inactive retirees who enroll in the plan must pay the entire premium cost as set by the board;

(6) "Employee" means a state employee or a public school district employee;

(7) "Health insurance representative" means an individual appointed by a participating entity to act as an agent for the Employee Benefits Division of the Department of Finance and Administration;

(8) "Ineligible inactive retiree" means a terminated employee who has worked a sufficient number of years to be considered vested but who has not yet reached the age to qualify to receive a retirement benefit;

(9) "Internal Revenue Service" means the United States Government agency responsible for tax collection and tax law enforcement;

(10) "Member" means any enrolled state or public school employee, retiree, or covered dependent;

(11) "Participating entity" means an organization authorized to participate in a plan offered under this subchapter;

(12) "Participating institution" means any two-year or four-year college that is participating in a plan offered under this subchapter;

(13) “Prepayment” means collection of medical or life insurance premiums or both medical and life insurance premiums from the employee and employer one (1) month in advance;

(14) “Qualifying event” means a change in an employee’s personal life that may impact his or her eligibility or a dependent’s eligibility for benefits, as defined by Internal Revenue Service guidelines;

(15) “Quality-of-care information” means the contents of medical records, member claims, patient surveys, pharmacy data, lab data, and other records of or reports about systems, networks, hospitals, and clinical providers to be gathered for assessment of the quality and costs of health care provided by systems, networks, hospitals, and clinical providers;

(16) “Quality performance indicator” means a specific inquiry or standard that, when applied to quality-of-care information, reveals a quantifiable measure of success or failure in system, network, hospital, or clinical provider care;

(17) “Retiree” means a retired employee who is eligible under the provisions of § 21-5-411;

(18) “State” means the State of Arkansas; and

(19) “Vendor” means:

(A) A corporation, partnership, or other organization licensed to do business and in good standing with the State of Arkansas; and

(B) A corporation, partnership, or other organization licensed to do business and in good standing with the State of Arkansas that is lawfully engaged in administering employer- or employee-funded benefit plans for employer groups in consideration of an administration fee payable to the vendor.

History. Acts 1995, No. 1206, § 7; 1999, No. 1280, § 7; 2005, No. 1937, § 2; 2007, No. 1009, § 7; 2009, No. 252, § 2.

Amendments. The 2007 amendment added (2), (4), (5), (7) through (9), and (11) through (14) and redesignated the remaining subsections accordingly; rewrote (10); inserted “and costs” in (15); substituted “and in good standing with” for “in”

in (19); and substituted “employer or employee funded benefit” for “employer funded health benefit” in (19)(B).

The 2009 amendment redesignated (2) as (2)(A) and (B); in (2)(A), inserted “in an alternate retirement plan as defined in § 24-7-801” following “a retiree,” deleted “as defined in § 24-7-801” from the end, and made minor stylistic changes.

21-5-410. Employees — Eligibility.

(a) Eligible employees shall include:

(1) All actively employed, eligible employees of participating agencies, boards, commissions, institutions, and constitutional offices;

(2) Members of the General Assembly;

(3) Elected constitutional officers;

(4) Appointed or elected board and commission members who are on a full-time salaried basis; and

(5)(A) Those state contract employees hired by the Arkansas National Guard on a full-time basis in accordance with the provisions of 10 U.S.C. § 2304.

(B) Membership of the contract employees of the Arkansas National Guard is conditioned upon the United States Government contributing the employer's share to the Employee Benefits Division of the Department of Finance and Administration.

(b) Membership of a state employee is conditioned upon the employee being in a budgeted state employee position or a position authorized by the General Assembly.

(c) An employee is one whose actual performance of duty requires one thousand (1,000) or more working hours per year.

(d) If a participating institution discontinues its participation in the group health and life insurance program instituted pursuant to the provisions of this subchapter, then the institution may not re-participate in the program for two (2) years after the institution's final date of participation in the program unless the Executive Director of the Employee Benefits Division of the Department of Finance and Administration gives his or her consent to an earlier date.

(e) Members are not allowed dual eligibility in either the state insurance plan or the public school insurance plan.

(f) The Arkansas State Police Employee Health Plan shall be exempt from any mandatory participation required by this section.

History. Acts 1972 (Ex. Sess.), No. 48, § 13; 1975, No. 575, § 3; 1977, No. 206, § 1; 1983, No. 423, § 4; 1985 (1st Ex. Sess.), No. 35, § 1; A.S.A. 1947, § 12-3113; Acts 2001, No. 1814, §§ 2, 4; 2007, No. 1009, § 8; 2009, No. 252, § 3.

Amendments. The 2007 amendment, in (a)(1), substituted "eligible" for "permanent" and deleted "eligible" preceding "participating"; redesignated former (a)(5) as present (a)(5)(A); redesignated former (b) as (a)(5)(B) and redesignated the remaining subsections accordingly; substituted

"Employee Benefits Division of the Department of Finance and Administration" for "State Employees Insurance Section of the Department of Finance Administration" in (a)(5)(B); substituted "Employees" for "Permanent employees are those whose employment is not seasonal or temporary and" in (c); in (d), inserted "and life" and substituted "two (2) years" for "one (1) year"; and added (e).

The 2009 amendment substituted "An employee is one" for "Employees" in (c).

21-5-411. Eligibility of certain retired employees.

(a)(1) State and public school employees shall be allowed to continue coverage and, if qualified, to participate in the group health insurance program instituted pursuant to the provisions of this subchapter and other laws enacted to implement the program who are:

(A) Participating members of:

(i) The Arkansas Public Employees' Retirement System, including the members of the legislative division and the contract personnel of the Arkansas National Guard;

(ii) The Arkansas Teacher Retirement System;

(iii) The Arkansas State Highway Employees' Retirement System;

(iv) The Arkansas Judicial Retirement System; or

(v) An alternate retirement plan of a qualifying institution under § 24-7-801; and

(B) Retired and drawing benefits under the systems.

(2)(A)(i) If members of these retirement systems receive retirement benefits, thereby becoming active retirees, the active retirees shall elect to enroll in the health benefit program sponsored by the State and Public School Life and Health Insurance Board.

(ii) The election to enroll in the retiree insurance program shall be made within thirty-one (31) days of the member's becoming an active retiree and shall be made in writing to the Employee Benefits Division of the Department of Finance and Administration on forms required by the Employee Benefits Division.

(B)(i) To be eligible to continue coverage or to qualify for coverage after electing to decline participation, the member must have been covered on the last day of the member's employment.

(ii) If a retiree declines coverage at the time of retirement due to other employer-sponsored group health insurance coverage, the retiree may make a one-time election to return to the retiree insurance program with proof of continued insurance coverage if the retiree experiences a qualifying event.

(C)(i) Except as provided in subdivision (a)(2)(C)(ii) of this section, an active retiree's failure to make an election during the thirty-one-day election period or an active retiree's election to decline participation in the health program is final.

(ii) If an active retiree declining coverage specifies in writing and provides a letter of creditable employer group coverage to show that the reason for the declination is because the active retiree has coverage through another employer group health plan and the active retiree's coverage is subsequently terminated because of a loss of eligibility, as defined by Internal Revenue Service regulations, and provides information from the former insurance company of the loss of eligibility, then the active retiree and any dependents shall qualify for coverage in the health benefit program under this subsection upon payment of the appropriate premium as established by the board, provided the active retiree applies for coverage within thirty (30) days of the loss of eligibility. Loss of coverage is defined by Internal Revenue Service and Health Insurance Portability and Accountability Act (HIPPA) guidelines for special enrollment periods.

(3)(A) Notwithstanding any other provision to the contrary in this section, an employee with ten (10) or more years of creditable service under the terms of a retirement plan listed in this section shall qualify for continuation of health insurance coverage offered by the board if that employee is separated from employment because of the expiration of a fixed period of employment.

(B)(i) An employee qualifying for continuation of coverage under this subsection shall be considered an "inactive retiree" and shall have thirty-one (31) days from the effective date of termination to elect to continue health insurance coverage under this section by notifying the Employee Benefits Division.

(ii) The election shall be made in writing on forms required by the Employee Benefits Division.

(C)(i) Except as provided in subdivision (a)(3)(C)(ii) of this section, an inactive retiree's failure to make an election during the thirty-one-day election period or an inactive retiree's election to decline participation in the health program is final.

(ii) If an inactive retiree as defined in § 21-5-407 declining coverage specifies in writing that the reason for the declination is because the inactive retiree has coverage through another group health plan and the inactive retiree's coverage is subsequently terminated because of a loss of eligibility, then the inactive retiree and any dependents shall qualify for coverage in a board-sponsored health benefit program upon payment of the appropriate premium as established by the board, provided the inactive retiree applies for coverage within thirty-one (31) days of the loss of eligibility.

(D) An eligible inactive retiree shall be reclassified as an "active retiree" upon electing to receive a retirement benefit by a retirement system listed within this section and shall be charged the premium rate appropriate for his or her rating category as an active retiree.

(4)(A) As used in this subsection, "loss of eligibility" means a loss of coverage as a result of a legal separation, divorce, death of the insured, termination of employment, or a reduction in the number of hours of employment.

(B) "Loss of eligibility" shall not include a loss of coverage from a failure to pay premiums on a timely basis, voluntary termination of coverage, or a termination of coverage for cause, such as making a fraudulent claim.

(b)(1) Persons who draw retirement benefits under the Arkansas Public Employees' Retirement System, the Arkansas Teacher Retirement System, or the Arkansas State Highway Employees' Retirement System, and retired contract employees of the Arkansas National Guard who wish to participate in the group insurance program provided for in this subchapter shall pay the retiree amount of the premium or the cost of the policy issued to the retired participant.

(2) The retiree portion of the premium or cost shall be deducted from the retirement benefit checks of the retired participants. If the retirement benefit is not large enough for the premium deduction, the premium shall be paid by monthly bank draft on a designated date prescribed by the Employee Benefits Division.

(c) Members of the Arkansas Public Employees' Retirement System and the Arkansas State Highway Employees' Retirement System who retire before January 2, 1988, under the provisions of the Incentives for Early Retirement Act, §§ 24-4-732, 24-5-122, and 24-6-102, shall not have to pay the full amount of the premium and shall pay a portion of the cost of the policy as set forth by the Incentives for Early Retirement Act, §§ 24-4-732, 24-5-122, and 24-6-102.

(d) Any future change in coverage other than cancellation shall be extended only to newly acquired dependents, except that if an active or inactive retiree declined dependent coverage at the time of election to be an active or inactive retiree and specified in writing that the reason

for the declination was that the dependent had other coverage, and if subsequently the dependent involuntarily loses such coverage, except for fraud or voluntary cessation of premium payment while the active or inactive retiree is covered by the plan, then the dependent may be added within thirty-one (31) days of the involuntary termination to the active or inactive retiree's health insurance coverage for payment of the appropriate premium as established by the board.

(e) If a retiree dies and has covered dependents at the time of death, the dependents have the right to continue coverage under the plan. Dependent children may be covered until marriage or until the maximum age limit for a dependent child has been reached. A surviving spouse may continue coverage under the plan. If a surviving spouse or dependent declines coverage or cancels existing coverage, then the surviving spouse or dependent has no further privileges under the plan.

History. Acts 1972 (Ex. Sess.), No. 48, § 13; 1975, No. 575, § 3; 1977, No. 206, § 1; 1983, No. 423, § 4; 1985 (1st Ex. Sess.), No. 35, § 1; A.S.A. 1947, § 12-3113; Acts 1987, No. 514, § 1; 1997, No. 1295, § 2; 1999, No. 1280, § 9; 2001, No. 1171, § 1; 2001, No. 1752, §§ 1, 2; 2007, No. 1009, § 9.

Amendments. The 2007 amendment rewrote the section.

21-5-412. Eligibility of certain elected officers.

(a) Members of the General Assembly and the state-elected constitutional officers who have served a sufficient number of years of credited service to be eligible for retirement benefits upon attainment of retirement age, but who have not yet reached retirement age, shall be eligible to continue to participate in state employees, life and health programs upon leaving elective service.

(b)(1) Any person who is leaving the General Assembly or any state-elected constitutional officer who wishes to participate in the state employee's life and disability program provided for in this subchapter shall be offered continuation of coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985.

(2)(A) An employee with ten (10) or more years of creditable service under the terms of a retirement plan listed in this section shall qualify for continuation of health insurance coverage offered by the board if that employee is separated from employment because of the expiration of a fixed period of employment.

(B)(i) An elected officer qualifying for continuation of coverage under this subsection shall be considered an "eligible inactive retiree" and shall have thirty-one (31) days from the effective date of termination to elect to continue health insurance coverage under this section by notifying the Employee Benefits Division of the Department of Finance and Administration in writing on forms required by the Employee Benefits Division.

(ii) The eligible inactive retiree shall pay the full amount of the insurance premium.

(C)(i) Except as provided in subdivision (b)(3)(C)(ii) of this section, an eligible inactive retiree's failure to make an election during the

thirty-one day election period or an eligible inactive retiree's election to decline participation in the health program is final.

(ii) An eligible inactive retiree who declined coverage and any dependents of the eligible inactive retiree shall qualify for coverage in the board-sponsored health benefit program upon payment of the appropriate premium as established by the board, provided the eligible inactive retiree applied for coverage within thirty-one (31) days of the loss of eligibility if:

(a) The eligible inactive retiree who declined coverage specifies in writing that the reason for the declination is because the eligible inactive retiree has coverage through another group health plan;

(b) The eligible inactive retiree's coverage is subsequently terminated because of a loss of eligibility; and

(c) The eligible inactive retiree provides information from the former insurance company confirming the loss of coverage.

(D)(i) An inactive retiree shall be charged the Consolidated Omnibus Budget Reconciliation Act of 1985 premium determined by the board to be actuarially sound with administrative fees deemed appropriate.

(ii) An eligible inactive retiree shall be reclassified as an active retiree upon electing to receive a retirement benefit by a retirement system listed within this section and shall be charged the premium rate appropriate for his or her rating category as an active retiree.

History. Acts 1972 (Ex. Sess.), No. 48, § 13; 1975, No. 575, § 3; 1977, No. 206, § 1; 1983, No. 423, § 4; 1985 (1st Ex. Sess.), No. 35, § 1; A.S.A. 1947, § 12-3113; Acts 2007, No. 1009, § 10.

Amendments. The 2007 amendment, in (a), substituted "health" for "disability" and made a minor stylistic change; deleted former (b) and redesignated the remaining subsections accordingly; substituted "be offered continuation of coverage under the Consolidated Omnibus Budget

Reconciliation Act (COBRA)" for "pay the full amount of the premium or cost of the policy issued to the participant, including the amount which the state is otherwise authorized to pay" in (b)(1); and rewrote (b)(2).

U.S. Code. The Consolidated Omnibus Budget Reconciliation Act of 1985, referred to in (b)(1) and (b)(2)(D)(i), is Pub. L. No. 99-272 and is compiled throughout the United States Code.

21-5-413. [Repealed.]

Publisher's Notes. This section, concerning employer contributions, was repealed by Acts 2007, No. 1009, § 11. The

section was derived from Acts 1972 (Ex. Sess.), No. 48, § 12; A.S.A. 1947, § 12-3112.

21-5-414. State contributions generally — Partial state contribution of employees' premiums.

(a) The Department of Finance and Administration shall seek the advice of the Legislative Council and the House Committee on Insurance and Commerce and the Senate Committee on Insurance and Commerce before additional contributions can be made.

(b)(1) The State of Arkansas, on behalf of agencies participating in the plans adopted by the state, is authorized to make a monthly contribution equal to the number of budgeted state employee positions multiplied by the monthly contribution authorized by the Chief Fiscal Officer of the State, not to exceed four hundred twenty-five dollars (\$425) monthly for each state employee budgeted position into a fund designated for state employee health benefits, to partially defray the cost of life and health insurance for employees of the state participating in the plan sponsored by the State and Public School Life and Health Insurance Board.

(2) The department may make a monthly contribution to partially defray the cost of health insurance for state employee retirees, utilizing funds made available for that purpose, not to exceed the amount authorized by the Chief Fiscal Officer of the State.

History. Acts 1973, No. 72, § 1; 1975, No. 156, § 1; 1977, No. 389, § 1; 1979, No. 323, § 1; 1981, No. 838, §§ 1, 2; 1983, No. 469, §§ 1, 2; 1985, No. 615, § 1; A.S.A. 1947, §§ 12-3115, 12-3115.1; Acts 1987, No. 743, § 1; 1989, No. 21, § 1; 1991, No. 127, § 1; 1991, No. 867, § 5; 1993, No. 904, § 1; 1995, No. 580, § 1; 1995, No. 1206, § 10; 1997, No. 183, § 4; 1997, No. 843, § 1; 1999, No. 1280, § 10; 2001, No. 185, § 1; 2007, No. 1009, § 12.

Amendments. The 2007 amendment, in (b)(1), substituted “four hundred twenty-five dollars (\$425)” for “three hundred fifty dollars (\$350)” and made minor stylistic changes.

21-5-415. Nonpayment of premiums and failure to file reports by agency or school district.

(a)(1) If any participating agency or school district does not remit insurance premiums and required monthly reports to the Employee Benefits Division of the Department of Finance and Administration by the last calendar day of each billing month, the division shall impose a penalty of two dollars (\$2.00) per insured member or one hundred dollars (\$100), whichever is greater.

(2) Penalties will be assessed and invoiced based on the actual number of members included on the monthly billing report that is past due. Invoices will be processed at the beginning of the month following the infraction.

(3) Penalties shall be payable to the Employee Benefits Division and must be received by the division no later than the last calendar day of the month following invoicing.

(4) If payment is not received by the division by the due date, the following collection methods may be used:

(A)(i) The Chief Fiscal Officer of the State may cause the amount sought to be transferred to the division from:

(a) Funds the agency or school district has on deposit with the Treasurer of State; or

(b) Any funds the agency or school district is due from the state.

(ii) If a transfer must be made, a transfer penalty of twenty dollars (\$20.00) per transfer shall be assessed each agency or school district fund and included in the transfer;

(B) The agency director or school district superintendent may be required to appear before the State and Public School Life and Health Insurance Board to report the reasons for nonpayment or incorrect reporting; and

(C) The Chief Fiscal Officer of the State may use his or her powers outlined in § 19-4-301 et seq. to aid in collection.

(5) Nonpayment of premiums could also result in a lapse of health and life insurance coverage for employees of the school district, agency, or the agency assuming responsibility for paying health and life claims for its employees.

(b)(1) If any participating agency or school district fails to follow established policy and procedures set by the executive director, including but not limited to notifying the division of an insured's leave without pay, family medical leave, or military leave status or if any participating agency or school district provides incorrect benefit information or processes unauthorized benefit changes, including system entries that result in unreimbursed expenses to the State Employees Benefits Trust Fund or Public School Employees Insurance Trust Fund, the division shall have the right to:

(A) Require the agency to pay the total amount of the insured's premium; and

(B) Impose a penalty of fifty dollars (\$50.00) per insured.

(2) Penalties will be assessed and invoiced based on the actual number of violations. Invoices will be processed at the beginning of the month following discovery of the infraction.

(3) Penalties shall be payable to the Employee Benefits Division and must be received by the last calendar day of the month following invoicing.

(4) The Chief Fiscal Officer of the State may cause the amount sought to be transferred from:

(A) Funds the agency or school district has on deposit with the Treasurer of State; or

(B) Any funds the agency or school district is due from the state.

(5) If a transfer is made, a transfer penalty of twenty dollars (\$20.00) per transfer shall be assessed each agency or school district fund and included in the transfer.

(c) The division may correct any error regarding an insured's benefits according to existing documentation without authorization or prior notification to the agency or school district.

History. Acts 1972 (Ex. Sess.), No. 48, § 8; 1973, No. 842, § 2; 1981, No. 749, § 4; 1981, No. 838, § 6; 1983, No. 582, § 1; A.S.A. 1947, § 12-3108; Acts 1997, No. 1295, § 3; 2003, No. 826, § 2; 2007, No. 1009, § 13.

Amendments. The 2007 amendment rewrote the section.

21-5-417. State contribution for employee receiving workers' compensation.

Notwithstanding any other provisions of the law, a state agency shall remit the employer's contribution to the Employee Benefits Division of the Department of Finance and Administration for state employees when the employee is in a leave-without-pay status because of a work-related injury and is receiving benefits from workers' compensation.

History. Acts 1989, No. 711, § 1; 2007, No. 1009, § 14.

Amendments. The 2007 amendment substituted "shall remit the employer's contribution to the Employee Benefits Di-

vision" for "may remit the employer's contribution to a health insurance program," deleted "provided that the employee is in a leave without pay status" following "status," and made related changes.

SUBCHAPTER 5 — DEFERRED COMPENSATION

SECTION.

21-5-504. Authority of state or political subdivision.

SECTION.

21-5-507. Payments by administrator.

21-5-508. Taxation of deferred income.

21-5-504. Authority of state or political subdivision.

(a) The state or any county, city, town, or other political subdivision may agree, by contract, with any employee to defer, in whole or in part, any portion of that employee's future compensation to a deferred compensation program.

(b)(1) The administrator of the deferred compensation program may:

(A) Contract for, purchase, or otherwise procure annuity contracts for the deferred compensation program; and

(B) Through a trust or custodian, contract for, purchase, or otherwise procure fixed or variable life insurance contracts, mutual funds, pooled investment funds, or such other investment vehicles that comply with state and federal laws and which permit the deferral of compensation for income tax and retirement savings purposes.

(2) If an annuity or life insurance contract is purchased, then it must be purchased from an insurance company licensed to contract business in this state, and any insurance agent selling such contracts must be licensed by this state.

History. Acts 1975, No. 669, § 1; A.S.A. 1947, § 12-1618; Acts 2001, No. 1596, § 1; 2007, No. 1009, § 15.

Amendments. The 2007 amendment inserted "and retirement savings" in (b)(1)(B).

21-5-507. Payments by administrator.

(a) Notwithstanding any other provision of law to the contrary, the Executive Director of the Employee Benefits Division of the Department of Finance and Administration or the appropriate officer of the county, city, town, or other political subdivision designated to administer the deferred compensation program is authorized:

(1) To make payments of premiums for the purchase of annuity contracts under the deferred compensation program; and

(2) To make deferrals to a trustee or custodian holding fixed or variable life insurance contracts, annuity contracts, mutual funds, pooled investment funds, or other investment vehicles under the deferred compensation program.

(b) The payments and deferrals shall not be construed to be a prohibited use of the general assets of the state, county, city, town, or other political subdivision.

History. Acts 1975, No. 669, § 5; 1977, No. 937, § 3; A.S.A. 1947, § 12-1622; Acts 1999, No. 1280, § 15; 2001, No. 1596, § 3; 2007, No. 1009, § 16.

Amendments. The 2007 amendment substituted “deferrals” for “payments” in (a)(2) and inserted “and deferrals” in (b).

21-5-508. Taxation of deferred income.

Any sum deferred under the deferred compensation program shall not be subject to income taxation until distribution is actually made to the employee or beneficiary.

History. Acts 1975, No. 669, § 6; A.S.A. 1947, § 12-1623; Acts 2007, No. 1009, § 17.

Amendments. The 2007 amendment added “or beneficiary” following “employee.”

SUBCHAPTER 6 — PUBLIC EMPLOYEE WORKERS’ COMPENSATION ACT

SECTION.

21-5-609. Benefits for emergency service volunteer workers.

21-5-609. Benefits for emergency service volunteer workers.

(a) Benefits payable for the injury or death of a person appointed and regularly enrolled in an emergency services organization and covered by this subchapter shall be limited to the provisions of the Workers’ Compensation Law, § 11-9-101 et seq. Such benefits are payable if the injury or death occurred while the person was:

(1) Actually engaged in emergency service duties, either during training or during a period of emergency; and

(2) Under the supervision and instruction and subject to the order or control of, or serving pursuant to a request of, the Governor, the Arkansas Department of Emergency Management, or the chief executive officer of a county or local government unit making use of emergency volunteer workers.

(b) The remedy provided in this section shall be the exclusive remedy as against the state and political subdivisions of the state.

(c)(1) For the purpose of workers’ compensation coverage in cases of injury to or death of an individual, all duly registered and qualified emergency services volunteer workers shall be deemed local government or state employees and shall receive compensation and their

survivors shall receive death benefits in the same manner as regular local government or state employees for injury or death arising out of and in the course of their activities as emergency services volunteer workers.

(2)(A) If an emergency services volunteer worker is injured or killed while subject to the order or control of a local government, compensation and benefits shall be charged against the applicable local government's experience rate and paid from the appropriate state workers' compensation fund.

(B) If the emergency services volunteer worker was under the order or control of a state agency when injured or killed, compensation and benefits shall be charged against the experience rate of the state agency which exercised order or control at the time of injury or death and paid from the appropriate state workers' compensation fund.

(d)(1) For the purpose of subsection (c) of this section, the weekly compensation benefits for an emergency services volunteer worker who receives no monetary compensation for services rendered as such a worker shall be calculated based upon the wages received from his or her regular or usual employment, the same as a regular local or state employee, with respect to injury, disability, or death.

(2) The reimbursement of twenty-five dollars (\$25.00) or less for out-of-pocket expenses for gasoline, oil, uniforms, required equipment, or similar expenses incurred in response to an emergency situation shall not be construed to be monetary compensation for the emergency services volunteer worker.

History. Acts 1979, No. 809, § 5; 1981, No. 929, § 4; A.S.A. 1947, § 12-3605; Acts 1999, No. 646, § 65; 2005, No. 1962, § 99.

SUBCHAPTER 7 — DEATH BENEFITS

SECTION.

- 21-5-703. Procedures for filing claims.
- 21-5-704. Payment of claim to covered public employees, their designated beneficiaries, or their survivors — Funds.
- 21-5-705. Payment of claim to designated

SECTION.

- beneficiaries or survivors of certain specified public employees killed in the line of duty — Funds.
- 21-5-707. Children.
- 21-5-708. Designated beneficiary.

21-5-703. Procedures for filing claims.

- (a) All claimants shall be subject to the same rules and regulations as are provided by the law governing procedure before the Arkansas State Claims Commission.
- (b) All claims asserted under this subchapter shall be filed within five (5) years of the following:
 - (1) The date of the covered public employee's death;

(2) The date of the incident causing the covered public employee's total and permanent disability; or

(3) The date the covered public employee permanently leaves the employment position covered by this subchapter.

(c) Unless § 6-82-504(e) is applicable, the commission shall award any scholarship benefit provided by the provisions of § 6-82-501 et seq. at the same time any death benefit or total and permanent disability benefit is awarded under this subchapter.

History. Acts 1969, No. 43, § 3; A.S.A. 1947, § 12-2349; Acts 1997, No. 547, § 3; 1999, No. 630, § 1; 2005, No. 1962, § 100.

21-5-704. Payment of claim to covered public employees, their designated beneficiaries, or their survivors — Funds.

(a)(1)(A) The state shall pay to the designated beneficiary or, if there is no designated beneficiary, then to the surviving spouse or surviving children under the age of twenty-two (22) or, if there is no surviving spouse or surviving children under the age of twenty-two (22), then to the surviving children twenty-two (22) years of age or older or to the surviving parents of any covered public employee who is killed in the official line of duty, the sum of fifty thousand dollars (\$50,000).

(B) In addition thereto, the municipality that employed the police officer or firefighter shall, upon certification of the amount by the police or fire department, pay to the designated beneficiary or, if there is no designated beneficiary, then to the surviving spouse or surviving children under the age of twenty-two (22) or, if there is no surviving spouse or surviving children under the age of twenty-two (22), then to the surviving children twenty-two (22) years of age or older or to the surviving parents of the deceased police officer or firefighter an allowance for all sick leave, vacation, or other leave time accumulated to the credit of the police officer or firefighter at the time of his or her death.

(2)(A) In the event a covered public employee shall suffer an injury while engaged in the performance of official duties resulting in his or her total and permanent disability, the disabled covered public employee shall be entitled to the sum of ten thousand dollars (\$10,000) from the State of Arkansas upon establishing proof of the total and permanent disability.

(B) Proof of total and permanent disability shall be established by offering evidence that the covered public employee was unable to work in the employment position covered by this subchapter for a period of more than one (1) year or that the covered public employee received a disability rating in excess of twenty-five percent (25%) from the Workers' Compensation Commission.

(b)(1) All allowances as provided for in this section for the designated beneficiary, surviving spouse, surviving children, or surviving parents

of covered public employees killed while performing official duties, or allowances provided covered public employees who are totally and permanently disabled while performing official duties, shall be paid totally from state funds appropriated therefor.

(2)(A) Except as provided in subdivision (b)(2)(B) of this section, the funds shall not be reimbursed by transfer or charging the funds against any state funds allocated for turnback to cities or counties or distributed to the State Highway and Transportation Department Fund or distributed to any Department of Correction fund account or any other state department agency fund account other than the Arkansas State Claims Commission fund accounts and the Miscellaneous Revolving Fund Account or state funds levied for firefighters, police officers, employees of the Arkansas State Highway and Transportation Department, and employees of the Department of Correction for pension purposes.

(B)(i) Twenty-five thousand dollars (\$25,000) of the fifty thousand dollars (\$50,000) provided in subdivision (b)(2)(A) of this section shall be paid by the appropriate state department agency fund account.

(ii) The appropriate state department agency shall transfer the necessary funds to the Arkansas State Claims Commission fund accounts for payment.

(c) It is the intent of this subchapter that twenty-five thousand dollars (\$25,000) of the total obligation of providing the benefits provided by this subchapter, even though the funds are to be administered by the Arkansas State Claims Commission, are to be defrayed from state funds and are not to be charged against, or recovered against, any turnback moneys due the cities or counties of this state or allocated to the state highway system of this state or to the Department of Correction or any other state department agency fund account other than the Arkansas State Claims Commission fund accounts and the Miscellaneous Revolving Fund Account.

History. Acts 1969, No. 43, § 2; 1973, No. 150, § 1; 1973, No. 399, § 2; 1977, No. 936, § 2; 1981, No. 890, § 2; 1985, No. 839, § 1; A.S.A. 1947, § 12-2348; Acts 1987, No. 349, § 2; 1989, No. 15, §§ 1, 2; 1989, No. 345, § 2; 1997, No. 547, § 4; 2009, No. 1313, §§ 1, 4.

A.C.R.C. Notes. Acts 2009, No. 1313, § 4, provided: "The provisions of this act are retroactive to July 1, 2008."

Amendments. The 2009 amendment

inserted "their designated beneficiaries" in the section heading; inserted "designated beneficiary or, if there is no designated beneficiary, then to the" in (a)(1)(A) and (a)(1)(B); substituted "fifty thousand dollars (\$50,000)" for "twenty-five thousand dollars (\$25,000)" in (a)(1)(A); rewrote (b); inserted "twenty-five thousand dollars (\$25,000)" in (c); and made minor stylistic changes.

21-5-705. Payment of claim to designated beneficiaries or survivors of certain specified public employees killed in the line of duty — Funds.

(a) The state shall pay the additional sum of one hundred fifty thousand dollars (\$150,000) to the designated beneficiary, surviving spouse, or surviving children under the age of twenty-two (22) of any:

(1) Police officer, wildlife enforcement officer of the Arkansas State Game and Fish Commission, commissioned law enforcement officer or emergency response employee of the State Parks Division of the Department of Parks and Tourism, Department of Community Correction employee, or employee of the Department of Correction whose death occurred:

(A) After January 1, 2003; and

(B) Either:

(i) In the official line of duty as the result of a criminal or negligent action of another person or persons or as the result of the engagement in exceptionally hazardous duty; or

(ii) In the line of duty while the officer or employee was performing emergency medical activities; and

(2) Firefighter, emergency medical technician, or employee of the Arkansas Forestry Commission killed after July 1, 1987, while responding to, engaging in, or returning from a fire, a rescue incident, a hazardous material or bomb incident, an emergency medical activity, or simulated training thereof.

(b) In addition to the benefits provided for in subsection (a) of this section, the state shall pay the additional sum of twenty-five thousand dollars (\$25,000) to the designated beneficiary, surviving spouse, or surviving children under the age of twenty-two (22) of any police officer, wildlife enforcement officer of the Arkansas State Game and Fish Commission, commissioned law enforcement officer of the State Parks Division of the Department of Parks and Tourism, Department of Community Correction employee, or employee of the Department of Correction:

(1) Who was wearing a bulletproof vest approved by the Director of the Department of Arkansas State Police; and

(2) Whose death occurred:

(A) After July 1, 1989; and

(B) In the official line of duty as the result of a criminal action of another person or persons.

(c)(1) Except as provided in subdivision (c)(2) of this section, the benefits shall be paid totally from state funds appropriated for these benefits. The funds shall not be reimbursed by a transfer or charging the funds against any state funds allocated for turnback to cities or counties or distributed to any other state department agency fund account other than the Arkansas State Claims Commission fund accounts and the Miscellaneous Revolving Fund Account.

(2)(A) Seventy-five thousand dollars (\$75,000) of the one hundred fifty thousand dollars (\$150,000) provided in subdivision (c)(1) of this

section shall be paid by the appropriate state department agency fund account.

(B) The appropriate state department agency shall transfer the necessary funds to the Arkansas State Claims Commission fund accounts for payment.

(d) The additional benefits provided in this section shall be paid to the designated beneficiary, surviving spouse, surviving children, or surviving parents in three (3) equal annual payments, the first of which shall be paid in July of the next fiscal year after the date of the original order of the Arkansas State Claims Commission establishing entitlement to additional payments and annually thereafter.

(e) Determination of eligibility for the additional payments provided in this section shall be made by the Arkansas State Claims Commission in accordance with Arkansas State Claims Commission rules and procedures.

History. Acts 1969, No. 43, § 2; 1973, No. 150, § 1; 1973, No. 399, § 2; 1977, No. 936, § 2; 1981, No. 890, § 2; 1985, No. 839, § 1; A.S.A. 1947, § 12-2348; Acts 1987, No. 349, § 2; 1989, No. 15, §§ 3, 4; 1989, No. 345, § 1; 1991, No. 99, § 1; 1993, No. 809, § 1; 1993, No. 1207, § 1; 1997, No. 547, § 5; 1999, No. 57, § 1; 2001, No. 113, § 5; 2003, No. 355, § 1; 2007, No. 806, § 1; 2009, No. 1313, § 1.

A.C.R.C. Notes. Acts 2009, No. 1313, § 4, provided: "The provisions of this act are retroactive to July 1, 2008."

Amendments. The 2007 amendment

inserted "emergency medical technician" in (a)(2) and made related changes.

The 2009 amendment inserted "designated beneficiaries or" in the section heading; substituted "one hundred fifty thousand dollars (\$150,000)" for "seventy-five thousand dollars (\$75,000)" in the introductory language of (a); inserted "designated beneficiary" in the introductory language of (a) and in (d); inserted "designated beneficiary, surviving" in the introductory language of (b); rewrote (c); and made minor punctuation changes.

21-5-707. Children.

(a) Unless designated as the beneficiary of a covered public employee under § 21-5-708, in order for a natural child to be eligible to receive benefits under this subchapter:

(1) The natural child must have been born prior to the date of the covered public employee's death or total and permanent disability; or

(2) The covered public employee or the covered public employee's spouse must have been pregnant with the natural child at the time of the covered public employee's death or total and permanent disability.

(b) Unless designated as the beneficiary of a covered public employee under § 21-5-708, in order for an adopted child to be eligible to receive benefits under this subchapter:

(1) The adopted child must have been adopted prior to the date of the covered public employee's death or total and permanent disability; or

(2) The adopted child's adoption process must have begun prior to the date of the covered public employee's death or total and permanent disability.

(c) Unless designated as the beneficiary of a covered public employee under § 21-5-708, in order for a stepchild under nineteen (19) years of age to be eligible to receive benefits under this subchapter:

(1) The stepchild must have been listed as a dependent on the covered public employee's federal and state income tax returns for each of the five (5) income years immediately prior to the date of the covered public employee's death or total and permanent disability; and

(2) The stepchild must have received more than one-half (1/2) of his or her financial support from the covered public employee in each of the five (5) income years immediately prior to the date of the covered public employee's death or total and permanent disability.

(d) Unless designated as the beneficiary of a covered public employee under § 21-5-708, in order for a stepchild nineteen (19) years of age or older to be eligible to receive benefits under this subchapter:

(1) The stepchild must have been listed as a dependent on the covered public employee's federal and state income tax returns in each of the five (5) previous income years; and

(2) The stepchild must have received more than one-half (1/2) of his or her financial support from the covered public employee in each of the five (5) previous income years.

History. Acts 1997, No. 547, § 7; 2005, No. 1962, § 101; 2009, No. 1313, § 2.

A.C.R.C. Notes. Acts 2009, No. 1313, § 4, provided: "The provisions of this act are retroactive to July 1, 2008."

Amendments. The 2009 amendment added "Unless designated as the beneficiary of a covered public employee under § 21-5-708" in the introductory language of (a) through (d).

21-5-708. Designated beneficiary.

(a)(1) A covered public employee may designate a beneficiary on a form provided by his or her employer.

(2) The form to designate a beneficiary shall be completed by the covered public employee, notarized, and submitted to his or her employer to be kept in the covered public employee's personnel file.

(3)(A) If a covered public employee designates a beneficiary, he or she shall review and resubmit the designation form annually.

(B) Upon a change of beneficiary, the employer shall notify the previous beneficiary within thirty (30) days after the change of beneficiary occurred.

(b) If the covered public employee does not designate a beneficiary, the benefits shall be paid to the surviving spouse or surviving children under the age of twenty-two (22) or, if there is no surviving spouse or surviving children under the age of twenty-two (22), then to the surviving children twenty-two (22) years of age or older or to the surviving parents.

History. Acts 2009, No. 1313, § 3.

A.C.R.C. Notes. Acts 2009, No. 1313,

§ 4, provided: "The provisions of this act are retroactive to July 1, 2008."

SUBCHAPTER 10 — EMPLOYEE PERFORMANCE EVALUATION

SECTION.

21-5-1002. Performance evaluation categories.

SECTION.

21-5-1003. Performance evaluation process.

Effective Dates. Acts 2003 (1st Ex. Sess.), No. 22, § 8: July 1, 2003. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that several changes in compensation levels enacted during the previous session of the General Assembly were applicable to the current biennium and that without this act becoming effective at the beginning of the fiscal year state employees could not be compensated at the approved level. Therefore, an emergency is declared to exist and Section 7 of this act being necessary for

the preservation of the public peace, health and safety shall become effective after the date of its passage and approval. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto a bill. If the bill is vetoed by the Governor and veto is overridden, it shall become effective on the date the last house overrides the veto; and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2003.”

21-5-1002. Performance evaluation categories.

There are established the following uniform performance evaluation categories for use in determining incentive pay award eligibility. As used in this subchapter:

- (1) “Unsatisfactory” means an overall performance of duties that is consistently unacceptable in quality, accuracy, and timeliness;
- (2) “Satisfactory” means an overall evaluation which demonstrates competency in the performance of the duties and responsibilities of the job;
- (3) “Above average” means an overall evaluation which demonstrates performance of the duties and responsibilities of the job at a level which is above the satisfactory level of performance; and
- (4) “Exceeds standards” means an overall evaluation which demonstrates performance of the duties and responsibilities of the job and productivity at a level exceeding that of an above average evaluation.

History. Acts 1997, No. 899, § 2; 2001, No. 1461, § 9; 2003 (1st Ex. Sess.), No. 22, § 5.

Publisher’s Notes. This section is being set out to reflect a correction in subdivision (4).

21-5-1003. Performance evaluation process.

- (a) Each agency, board, commission, or institution of higher education shall revise or develop an evaluation process suited to the mission of the agency, board, commission, or institution of higher education if:
- (1) The employee’s evaluation is conducted annually;

(2) The process of evaluation begins at least ninety (90) days before the employee's eligibility date, as defined by the guidelines of the Office of Personnel Management of the Division of Management Services of the Department of Finance and Administration as they existed on January 1, 2007;

(3) The employee's evaluation is completed thirty (30) days before the employee's eligibility date unless the agency director has extended for good cause the employer's date for completing the employee's evaluation;

(4) The evaluation process identifies performance that is "unsatisfactory", "satisfactory", "above average", and "exceeds standards"; and

(5) The evaluation process complies with the guidelines established by the office.

(b) The agency, board, commission, or institution of higher education shall implement the performance evaluation process required by subsection (a) of this section after it is approved by the office.

History. Acts 1997, No. 899, § 3; 2003 (1st Ex. Sess.), No. 22, § 6; 2003 (1st Ex. Sess.), No. 22, § 6; 2007, No. 449, § 1; 2009, No. 252, § 4.

Amendments. The 2007 amendment, in (a), substituted "Each" for "Any" and substituted "shall" for "may"; added present (a)(1) and redesignated the remaining subsections accordingly; substituted "process" for "system" in (a)(3); in (b), substituted "shall" for "may", substituted "process required by subsection (a) of this section after it is approved" for

"system upon approval" and deleted "review by the Legislative Council" following "office"; and added (c).

The 2009 amendment redesignated (a); substituted "of higher education if" for "provided" in (a); substituted "office" for "Office of Personnel Management of the Division of Management Services of the Department of Finance and Administration" in (a)(5); inserted "of higher education" in (b); deleted (c); and made minor stylistic changes.

SUBCHAPTER 11 — CAREER LADDER INCENTIVE PROGRAM

SECTION.

21-5-1101. Merit increase pay system.

Effective Dates. Acts 2003 (1st Ex. Sess.), No. 22, § 8; July 1, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that several changes in compensation levels enacted during the previous session of the General Assembly were applicable to the current biennium and that without this act becoming effective at the beginning of the fiscal year state employees could not be compensated at the approved level. Therefore, an emergency is declared to exist and Section 7 of this act being necessary for the preservation of the public peace, health and safety shall become effective

after the date of its passage and approval. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto a bill. If the bill is vetoed by the Governor and veto is overridden, it shall become effective on the date the last house overrides the veto; and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2003."

Acts 2007, No. 289, § 2; July 1, 2007. Emergency clause provided: "It is found and determined by the General Assembly that provisions of this act changes the

Uniform Attendance and Leave Policy Act and should become effective July 1, 2007, for consistent application and to avoid confusion and that unless this emergency clause is adopted, this act will not go into effect until after the beginning of the next fiscal year. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after July 1, 2007."

Acts 2007, No. 799, § 4: July 1, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act affects the consideration of retirement benefits in the Arkansas Public Employees' Retirement System and that the ideal and most efficient time to make revisions to the consideration of retirement benefits is at the beginning of the state's fiscal year. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2007."

Acts 2009, No. 688, § 15: July 1, 2009. Emergency clause provided: "It is found

and determined by the General Assembly of the State of Arkansas that the fiscal year for employees begins on July 1 of every year and that the implementation of the Uniform Classification and Compensation Act is immediately necessary to ensure the continued services and operations of the state. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2009."

Acts 2011, No. 1017, § 11: July 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the state salary classification schedules must be updated and revised; that the fiscal year for state employees begins each July 1; and that this act is essential and immediately necessary to implement the Uniform Classification and Compensation Act and to ensure the continued, uninterrupted operation of state government and services. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011."

21-5-1101. Merit increase pay system.

(a) The Department of Finance and Administration is authorized to develop and implement a merit increase pay system in accordance with the performance evaluation process under § 21-5-1001 et seq. for the following employees:

(1) Employees of all state agencies, boards, commissions, and institutions covered by the Uniform Classification and Compensation Act, § 21-5-201 et seq.; and

(2) Employees in nonclassified positions of all state agencies, boards, and commissions, excluding institutions.

(b)(1) Except as provided in subdivision (b)(2) of this section, to be eligible to be evaluated under the merit increase pay system an employee shall have continuous employment with the state in a regular full-time position for twelve (12) months.

(2) A part-time employee in a regular salary position who has had continuous part-time employment with the state for twelve (12) months shall be eligible to be evaluated for a pay increase under the merit increase pay system and to receive the merit pay increase on a pro rata basis.

(c) For the purpose of this subchapter, "merit increase pay system" means a merit-based pay system that incorporates pay and performance evaluation standards according to § 21-5-1001 et seq. and establishes criteria for lump-sum payments for employees who meet requisite performance categories.

(d) Merit payments may be awarded to employees who satisfy performance evaluation-based criteria developed by agencies and institutions in accordance with rules and policies developed and approved by the Office of Personnel Management after review by the Legislative Council.

(e) Effective July 1, 2011:

(1) Employees who receive an overall satisfactory rating under an approved performance evaluation system shall be eligible for a one and five-tenths percent (1.5%) merit increase;

(2) Employees who receive an overall above-average rating under an approved performance evaluation system shall be eligible for a three percent (3%) merit increase; and

(3) Employees who receive an overall exceeds-standards rating under an approved performance evaluation system shall be eligible for a four and five-tenths percent (4.5%) merit increase.

(f)(1)(A) Employees in positions assigned to the career service pay plan shall be eligible for a merit increase to be paid as a lump sum on the employee's merit increase date, and the payment shall not be construed as exceeding maximum salary.

(B) Employees in positions assigned to the professional and executive pay plan shall be eligible for the merit increase as provided in this section, but the increase shall be paid as a lump sum on the last pay period of the fiscal year of the year in which the increase is to occur, and the payment shall not be construed as exceeding maximum salary.

(C) Nonclassified employees in positions with maximum annual salary rates set out in dollars established by law shall be eligible to receive a merit increase as provided in this section, but the increase shall be paid as a lump sum on the last pay period of the fiscal year of the year in which the increase is to occur, and the payment shall not be construed as exceeding maximum salary.

(2) The lump-sum payments authorized in this section shall be considered as salary for the purposes of retirement eligibility.

(g) Management or supervisory personnel who fail to complete annual evaluations of employees under their administrative control shall not be eligible for merit payments.

(h)(1) If the Chief Fiscal Officer of the State determines that general revenue funds are insufficient to implement the merit increases authorized in this subchapter or by any other law that affects salary increases for state employees, the Chief Fiscal Officer of the State, upon approval of the Governor, may reduce the percentage of all authorized merit increases for all state employees covered by this subchapter without regard to whether or not the employees are compensated from general or special revenues, federal funds, or trust funds.

(2) However, if sufficient general revenues should then become available at any time during the fiscal year to provide the merit increases for all state employees without regard to the source of revenues, merit increases for state employees provided for in this subchapter or by any other law may then be fully implemented by the Chief Fiscal Officer of the State.

(3) Any adjustments in the implementation of authorized merit increases made by the Chief Fiscal Officer of the State under this subsection shall be reported to the Personnel Subcommittee of the Legislative Council.

History. Acts 1999, No. 1061, § 1; 2001, No. 1461, § 12; 2003 (1st Ex. Sess.), No. 22, § 4; 2007, No. 289, § 1; 2007, No. 799, § 2; 2009, No. 688, § 14; 2011, No. 1017, § 10.

Amendments. The 2007 amendment by No. 289 substituted “Merit increase pay system” for “Competency-based promotions and salary adjustments” in the section heading; rewrote (a); added present (b) and (e), redesignating subdivisions accordingly; rewrote present (c), (d), and (f); and substituted “merit payments” for “promotion or salary adjustment bonus payments” in present (g).

The 2007 amendment by No. 799 substituted “shall be considered” for “shall not be considered” in (f)(2).

The 2009 amendment, in (a), deleted “a job series promotion system and” following “implement” in the introductory lan-

guage, and deleted “of higher education” following “institutions” in (a)(1) and (a)(2); in (b)(2), substituted “who has had continuous part-time employment with the state for twelve (12) months” for “that completes two thousand eighty (2,080) hours” and inserted “and to receive the merit pay increase on a pro rata basis; deleted (c)(2) and redesignated the remaining subdivision accordingly; substituted “2009” for “2007, for the 2007-2009 biennium” in the introductory language of (e); rewrote (f); added (h); and made minor stylistic changes.

The 2011 amendment deleted “salary adjustments or” preceding “lump-sum payments” in (c); substituted “2011” for “2009” in the introductory language of (e); rewrote (f)(1)(A); and added “and the payment shall not be construed as exceeding maximum salary” in (f)(1)(B) and (C).

SUBCHAPTER 12 — ACTIVE DUTY AFTER SEPTEMBER 11, 2001

SECTION.

21-5-1201. Definitions.

21-5-1202. Compensation of employees of state agencies and state-supported institutions — Emergency activities.

SECTION.

21-5-1203. Compensation of public school district employee — Emergency activities.

21-5-1201. Definitions.

As used in this subchapter:

(1) “Emergency nature or contingency” means:

(A) Any case or imminent danger of invasion, disaster, insurrection, riot, or breach of peace;

(B) A threat to the public health or security; or

(C) A threat to the maintenance of law and order; and

(2) “State agency” includes the Arkansas State Highway and Transportation Department, the Arkansas State Game and Fish Commission, and the State Highway Commission.

History. Acts 2005, No. 2113, § 3.

21-5-1202. Compensation of employees of state agencies and state-supported institutions — Emergency activities.

(a) Notwithstanding the provisions of the Uniform Attendance and Leave Policy Act, § 21-4-201 et seq., during the period that an employee of a state agency or institution of higher education is called to active duty after September 11, 2001, as a member of the National Guard or any of the reserve components of the armed forces by order of the President or the Governor of an emergency nature or contingency for more than thirty (30) consecutive days, the employee shall be eligible for continued proportionate salary payments which, when combined with the employee's active duty pay, incentives, and allowances, except for uniform and clothing allowances, equal the amount that the employee would have otherwise received but for the employee's required active duty under the order of the President or the Governor.

(b) The Department of Finance and Administration shall establish appropriate procedures for the administration of this section.

History. Acts 2005, No. 2113, § 1.

21-5-1203. Compensation of public school district employee — Emergency activities.

(a) Notwithstanding any other law, during the period that an employee of a public school district is called to active duty after September 11, 2001, as a member of the National Guard or any of the reserve components of the armed forces by order of the President or the Governor of an emergency nature or contingency for more than thirty (30) consecutive days, the employee shall be eligible for continued proportionate salary payments which, when combined with the employee's active duty pay, equal the amount that the employee would have otherwise received but for the employee's required active duty under the order of the President or the Governor.

(b) The Department of Education shall establish appropriate procedures for the administration of this section.

History. Acts 2005, No. 2113, § 2.

CHAPTER 6

FEEES

SUBCHAPTER.

3. COUNTY OFFICERS.
4. OFFICERS OF THE COURT.
5. MISCELLANEOUS FEES.

SUBCHAPTER 1 — GENERAL PROVISIONS**21-6-101. Fees in certain sections superseded.**

Publisher's Notes. Section 17-89-303, referred to in this section, has been renumbered as 17-90-303.

SUBCHAPTER 3 — COUNTY OFFICERS**SECTION.**

21-6-302. County treasurers.
21-6-306. Recorders.

SECTION.

21-6-308. Constables.

21-6-302. County treasurers.

(a) Unless otherwise provided by §§ 6-13-701, 6-17-908, 6-20-221, 14-90-913, 14-284-403, and 21-6-104, the county treasurers shall be required to collect, as a treasurer's commission, two percent (2%) on all funds coming into their hands as treasurers and to be paid out of the respective funds.

(b) All commissions collected under this section shall be paid into the county treasury to the credit of the county treasurer's commission fund.

(c) All moneys collected by the treasurer as commissions shall be used by the treasurer to offset administrative costs.

(d)(1) The treasurer may set aside up to ten percent (10%) of the gross commissions collected annually to be credited to the county treasurer's automation fund to be used:

(A) To operate the office of the county treasurer;

(B) For administrative costs; and

(C) To purchase, maintain, and operate an automated accounting and record-keeping system.

(2) The acquisition and update of software for the automated accounting and record-keeping system shall be permitted uses of these funds.

(3) Moneys deposited in this fund may accumulate and shall be appropriated and expended for the uses designated in this section by the quorum court at the direction of the treasurer.

(e)(1) The treasurer shall receive no commission for the handling of revolving loan, equalizing, and vocational education funds, proceeds of school bond sales, money collected from insurance on losses, and all nonrevenue receipts.

(2) As used in this subsection, "nonrevenue receipts" means reimbursement of all or a part of a payment made by the county.

(f) In the case of funds of a school district composed of area in two (2) or more counties, only the county treasurer of the county in which the district is administered shall be allowed a commission on such funds.

History. Acts 1941, No. 78, § 1; 1985, 1991, No. 257, § 1; 1999, No. 108, § 1; No. 558, § 2; A.S.A. 1947, § 12-1728; Acts 2003, No. 844, § 1; 2005, No. 435, § 2.

21-6-306. Recordors.

(a)(1) The uniform fees to be charged by the recordors in the various counties in this state shall be as follows:

(A) For recording deeds, deeds of trust, mortgages, release deeds, powers of attorney, plats, survey plats, notary bonds, foreign judgments, materialman's liens, and other recordable instruments, except as otherwise prescribed in this section, fifteen dollars (\$15.00) for one (1) page, one (1) side only, and five dollars (\$5.00) for each additional page;

(B) For recording mortgage assignments, mortgage releases, and other instruments when multiple instruments are listed in a single document, an additional fee of fifteen dollars (\$15.00) per instrument listed not to exceed three hundred dollars (\$300) shall be charged; and

(C) Eight dollars (\$8.00) for filing or recording a certificate of assessment or any other instrument not specified in this subsection.

(2) If the recorder waives the requirements of § 14-15-402(b)(1) for good cause, the instrument may be recorded for an additional fee of twenty-five dollars (\$25.00).

(b)(1) All fees collected under this section shall be paid into the county treasury to the credit of the fund to be known as the "county recorder's cost fund".

(2) Moneys deposited in this fund shall be appropriated and expended for the uses designated in this section by the quorum court at the direction of the recorder.

(3) Appropriated moneys shall be placed into line items within the recorder's budget as approved by the quorum court.

(c)(1) All moneys collected by the recorder as a fee as provided in this section shall be used by the recorder's office to offset administrative costs.

(2)(A) At least twenty-five percent (25%) of the moneys collected annually shall be used to purchase, maintain, and operate an automated records system. The acquisition and update of software for the automated records system shall be a permitted use of these funds.

(B) At the discretion of the recorder, any funds not needed by the recorder for any of the purposes under this subdivision (c)(2) may be transferred to the county general fund.

(C) Any funds in excess of one million dollars (\$1,000,000) held at any time in the county recorder's cost fund shall be transferred to the county general fund.

History. Acts 1945, No. 55, § 2; 1963, No. 124, § 1; 1977, No. 333, § 3; A.S.A. 1947, § 12-1720; Acts 1989, No. 534, § 2; 1995, No. 768, § 1; 2001, No. 1144, § 1; 2003, No. 1339, § 1; 2007, No. 615, § 1; 2009, No. 202, § 1.

Amendments. The 2007 amendment in present (a)(1)(A), inserted "plats, sur-

vey plats, notary bonds, foreign judgments, writs of execution, writs of garnishment, materialman's liens" and substituted "fifteen dollars (\$15.00)" for "eight dollars (\$8.00)" and "five dollars (\$5.00)" for "three dollars (\$3.00)"; added (a)(1)(B) and (C); rewrote (a)(2); added (b)(3); and added (c)(2)(C).

The 2009 amendment deleted “writs of execution, writs of garnishment” in (a)(1)(A), and made a related change.

21-6-308. Constables.

(a) The quorum court may fix the salary of the constables that are elected within the jurisdiction of the quorum court.

(b) All constables in this state shall collect and account for all fees collected and the fees shall be deposited with the county treasurer in the constable’s jurisdiction not more than thirty (30) days after their collection.

(c) Constables shall collect and account for the following fees:

- (1) For serving a warrant in a criminal case, for each defendant \$ 2.00
- (2) For taking a criminal to jail 2.00
- (3) For summoning each jury before a justice of the peace 1.00
- (4) For levying each execution 2.00
- (5) For taking each delivery bond 1.00
- (6) For summoning each witness75
- (7) For levying a writ of attachment 2.00
- (8) For every return of non est on a writ, original or judicial, or subpoena20
- (9) For return of nulla bona20
- (10) For attending a trial of each case in the court of a justice of the peace50
- (11) For attending and calling court at each trial upon continuance50
- (12) For care of each prisoner while in actual custody for each day75
- (13) For summoning each defendant 2.00

History. Acts 1875, No. 77, § 31, p. 167; 1875 (Adj. Sess.), No. 58, § 11, p. 103; 1885, No. 97, § 1, p. 156; 1885, No. 98, § 2, p. 157; 1899, No. 190, § 1, p. 334; 1903, No. 32, § 1, p. 55; C. & M. Dig., § 4598; Pope’s Dig., § 5687; Acts 1947, No. 221, § 1; 1961, No. 472, § 1; 1971, No. 233, § 1; 1973, No. 141, § 1; A.S.A. 1947, § 12-1730; Acts 2011, No. 561, § 5.

Amendments. The 2011 amendment substituted “may” for “shall” preceding “fix” in (a).

SUBCHAPTER 4 — OFFICERS OF THE COURT

SECTION.	SECTION.
21-6-401. Clerk of Supreme Court.	ment involving the trans-
21-6-402. Circuit court clerks — Miscella- neous fees.	mission of account infor-
21-6-403. Circuit court clerks — Uniform filing fees.	mation.
21-6-411. Prosecuting attorneys — Cer- tain checks, orders, drafts, or other forms of present-	21-6-413. Probate and county matters — Miscellaneous court fees.
	21-6-414. [Repealed.]
	21-6-416. Court clerks — Technology fees.

Effective Dates. Acts 2007, No. 663,
§ 56: Jan. 1, 2008.

21-6-401. Clerk of Supreme Court.

(a)(1) The Clerk of the Supreme Court shall be allowed and paid by the appellant or petitioner, in advance, in all civil actions and misdemeanors filed in either the Supreme Court or the Court of Appeals a fee of one hundred fifty dollars (\$150).

(2)(A) The Clerk of the Supreme Court shall be allowed a fee of one hundred fifty dollars (\$150) for a certified question from a federal court.

(B) The fee shall be prorated among the parties filing briefs and paid by each party at the time the brief is filed except that if the Attorney General is requested to file a brief, he or she shall not be required to pay any portion of the fee.

(3) The Clerk of the Supreme Court shall be allowed and paid by the petitioner, in advance, for each petition for rehearing of a decision of the Court of Appeals or Supreme Court a fee of twenty-five dollars (\$25.00).

(4) If the judgment of the Supreme Court or the Court of Appeals is in favor of the appellant or petitioner, the Clerk of the Supreme Court shall tax the fee provided in this subsection in favor of the appellant or petitioner.

(b)(1) The Clerk of the Supreme Court shall be allowed and paid by the petitioner, in advance, for each petition for review of a decision of the Court of Appeals filed in the Supreme Court a fee of twenty-five dollars (\$25.00).

(2) If the decision of the Court of Appeals is reversed by the Supreme Court, the Clerk of the Supreme Court shall tax the fee provided in this subsection in favor of the petitioner.

- (c) The Clerk of the Supreme Court shall also be allowed:
- (1) For each certificate and seal\$ 1.00
 - (2) For acknowledging each deed50
 - (3) For copies of papers and records per page50
 - (4) For other services, the same fees allowed clerks of the circuit court.

(d) The Supreme Court may implement a case management system for the courts of the state that may include electronic filing and public online access to court decisions and other court records, and the Supreme Court by court rule may establish a reasonable fee for access and related use.

(e) All of the collected fees provided in subdivisions (a)(1) and (a)(4) of this section and subsections (b) and (c) of this section shall be deposited into a bank to the account of the Supreme Court Library Fund, to be used by the Supreme Court for the maintenance and improvement of the Supreme Court Library.

(f) All of the collected fees provided in subdivisions (a)(2) and (a)(3) of this section and subsection (d) of this section shall be remitted by the

Clerk of the Supreme Court on or before the fifteenth day of each month to the Administration of Justice Funds Section on a form provided by the Office of Administrative Services of the Department of Finance and Administration for deposit into the Judicial Fine Collection Enhancement Fund established by § 16-13-712.

History. Acts 1851, § 7, p. 89; 1895, No. 145, § 7, p. 213; C. & M. Dig., §§ 2141, 4572, 9776f; Pope's Dig., §§ 2747, 5656, 13315; Acts 1961, No. 132, § 1; 1961, No. 133, § 1; 1981, No. 601, §§ 1, 2; A.S.A. 1947, §§ 12-1709 — 12-1709.2, 22-238; Acts 1993, No. 822, § 1; 2005, No. 1934, § 13; 2007, No. 378, § 1; 2009, No. 328, § 5; 2009, No. 633, § 20.

A.C.R.C. Notes. Pursuant to § 1-2-207, the amendment of § 21-6-401 by Acts 2009, No. 328, § 5, is superseded by the amendment of § 21-6-401 by Acts 2009, No. 633, § 20. As amended by Acts 2009, No. 328, § 5, § 21-6-401 read as follows:

"21-6-401. Clerk of Supreme Court.

"(a)(1) The Clerk of the Supreme Court shall be allowed and paid by the appellant or petitioner, in advance, in all civil actions and misdemeanors filed in either the Supreme Court or the Court of Appeals a fee of one hundred fifty dollars (\$150).

"(2)(A) The Clerk of the Supreme Court shall be allowed a fee of one hundred fifty dollars (\$150) for a certified question from a federal court;

"(B) The fee shall be prorated among the parties filing briefs and paid by each party at the time the brief is filed except that if the Arkansas Attorney General is requested to file a brief, he or she shall not be required to pay any portion of the fee.

"(3) The Clerk of the Supreme Court shall be allowed and paid by the petitioner, in advance, for each petition for rehearing of a decision of the Court of Appeals or Supreme Court a fee of twenty-five dollars (\$25.00).

"(4) If the judgment of the Supreme Court or the Court of Appeals is in favor of the appellant or petitioner, the Clerk of the Supreme Court shall tax the fee provided in this subsection in favor of the appellant or petitioner.

"(b)(1) The Clerk of the Supreme Court shall be allowed and paid by the petitioner, in advance, for each petition for review of a decision of the Court of Appeals filed in the Supreme Court a fee of twenty-five dollars (\$25.00).

"(2) If the decision of the Court of Appeals is reversed by the Supreme Court, the Clerk of the Supreme Court shall tax the fee provided in this subsection in favor of the petitioner.

"(c) The Clerk of the Supreme Court shall also be allowed:

"(1) For each certificate and seal \$ 1.00

"(2) For acknowledging each deed50

"(3) For copies of papers and records per page50

"(4) For other services, the same fees allowed clerks of the circuit court.

"(d) The Clerk of the Supreme Court shall be allowed and paid in advance in all civil actions and misdemeanors filed in either the Supreme Court or the Court of Appeals a fee of twenty dollars (\$20.00) for every motion, response, and similar paper.

"(e) The Supreme Court may implement a case management system for the courts of the state that may include electronic filing and public online access to court decisions and other court records, and the Supreme Court by court rule may establish a reasonable fee for access and related use.

"(f) All of the collected fees provided for in subsections (a)(1), (a)(4), (b), and (c) of this section shall be deposited in a bank to the account of the Supreme Court Library Fund, to be used by the Supreme Court for the maintenance and improvement of the Supreme Court Library.

"(g) All of the collected fees provided for in subsections (a)(2), (a)(3), (d), and (e) of this section shall be remitted by the Clerk of the Supreme Court on or before the fifteenth day of each month to the Administration of Justice Funds Section of the Office of Administrative Services of the Department of Finance and Administration on a form provided by that office for deposit in the Judicial Fine Collection Enhancement Fund established by § 16-13-712."

Amendments. The 2007 amendment substituted "one hundred fifty dollars

(\$150)" for "one hundred dollars (\$100)" in (a)(1).

The 2009 amendment by No. 328, in (a), inserted (a)(2) and (a)(3) and redesignated the remaining subdivision accordingly; deleted "which shall be full payment of all the costs in the proceedings" following "\$150" in (a)(1) and following "\$25.00" in (b)(1); inserted (d) and redesignated the subsequent subsections accordingly; rewrote (e); inserted "collected" and "(1),

(a)(4)" in (f); rewrote (g); and made related changes.

The 2009 amendment by No. 633 inserted (a)(2) and (a)(3), deleted (d), and redesignated accordingly; deleted "which shall be full payment of all the costs in the proceedings" following the dollar amounts in (a)(1) and (b)(1); rewrote (d); substituted "(a)(1), (a)(4)" for "(a)" in (e); rewrote (f); and made related and minor stylistic changes.

21-6-402. Circuit court clerks — Miscellaneous fees.

(a)(1) The fees to be charged by the clerks of the circuit courts for the following matters in the circuit courts in the state shall be as prescribed in this section.

(2) No portion of these fees shall be refunded.

(b) The fees shall be:

(1) For drawing and issuing, sealing any summons, subpoena \$.25

(2) For writs or executions20.00

(3) For certificate and seal5.00

(4) For making and preparing any transcript:

(A) Two dollars and fifty cents (\$2.50) for the first one thousand (1,000) pages;

(B) Two dollars (\$2.00) for pages one thousand one (1,001) through two thousand (2,000);

(C) One dollar and fifty cents (\$1.50) for pages two thousand one (2,001) through three thousand (3,000);

(D) One dollar (\$1.00) for pages three thousand one (3,001) through four thousand (4,000); and

(E) Fifty cents (.50) for any page over four thousand one (4,001);

(5) For indexing each page25

(6) For certifying costs2.50

(7) For authentication certificate5.00

(8) For filing an application for appointment to serve civil process under Supreme Court Administrative Order Number 20140.00

(9) For filing a renewal of an appointment to serve civil process under Supreme Court Administrative Order Number 2050.00

(c) The fees to be charged by the circuit court clerks of this state to the Department of Finance and Administration shall be as follows:

(1) For filing a certificate of indebtedness issued by the Department of Finance and Administration\$8.00

(2) For filing a release of a certificate of indebtedness 6.00

(3) For an execution on a certificate of indebtedness filed by the Department of Finance and Administration10.00

History. Acts 1945, No. 55, § 1; 1977, No. 333, § 2; A.S.A. 1947, § 12-1710; Acts 1999, No. 1081, § 7; 2003, No. 1765, § 26;

2005, No. 919, § 1; 2005, No. 1934, § 14; 2009, No. 328, § 6; 2011, No. 1145, § 1.

A.C.R.C. Notes. Acts 2009, No. 328,

§§ 1 and 2, provided: "Pursuant to Arkansas Code § 16-10-101 and 16-10-102, the Arkansas Supreme Court, through the Administrative Office of the Courts, is responsible for the design, purchase, implementation, and operation of a comprehensive automated court management system for use by all district, circuit, and appellate courts in the State of Arkansas.

"In 2001, the Arkansas Supreme Court created the Arkansas Court Automation Project to carry out these responsibilities and appointed the Arkansas Supreme Court Committee on Automation to oversee the project. Since that time a comprehensive system has been bid and purchased, redesigned for maximum use in Arkansas courts, and implemented in a number of pilot courts in the state. The

system is now completed and scheduled for distribution and use by all of the courts in the state.

"The purpose of this Act is to provide a structure for the perpetual staffing and operation of the system so that the system is self-supporting and all funding is generated by and through use of the system and without any use of the general revenue funds of the State of Arkansas.

"This Act is to be known as the 'Court Technology Improvement Act of 2009'."

Amendments. The 2009 amendment rewrote (a) and (b); and redesignated former (b) as (c).

The 2011 amendment deleted "each page in" and "2.50" in the present introductory language of (b)(4); and inserted (b)(4)(A) through (E).

CASE NOTES

Fee Not Allowed.

Neither § 16-10-301 to 16-10-305 nor § 21-6-402 to 21-6-406 refer to a fee that may be charged by bailiffs, clerks, or the courts for potential juror information.

Therefore, a circuit court erred when it refused to refund a \$3.00 fee charged by a bailiff for potential juror information in a criminal case. *Aikens v. State*, 368 Ark. 641, 249 S.W.3d 788 (2007).

21-6-403. Circuit court clerks — Uniform filing fees.

(a)(1) The uniform filing fees to be charged by the clerks of the circuit courts for initiating or reopening a cause of action in the circuit courts in the state shall be as prescribed in this section.

(2) No portion of the filing fees shall be refunded.

(b) The uniform filing fees are:

(1) For initiating a cause of action in the circuit court, including appeals\$150.00

(2) For filing a mortgagee's or trustee's notice of default and intention to sell pursuant to § 18-50-104140.00

(3) For reopening a cause of action in the circuit court50.00

(4) For any cause of action which by court order is transferred from any district or circuit court to a circuit court50.00.

(c) No fee shall be charged or collected by the clerks of the circuit courts when the court, by order, pursuant to Rule 72 of the Arkansas Rules of Civil Procedure, allows an indigent person to prosecute a cause of action in forma pauperis.

(d) No initial filing fee shall be charged for domestic violence petitions filed pursuant to § 9-15-201 et seq. Established filing fees may be assessed pursuant to §§ 5-26-310 and 9-15-202(c).

(e) No fee shall be charged or collected by the clerks of the circuit courts for reopening a cause of action in the circuit court under the following circumstances:

(1) Application is made for revocation of conditional release of insanity acquittees pursuant to § 5-2-316; or

(2) An agreed order or an order of income withholding is presented to be filed, and no service of process is required.

(f) No county shall authorize, and no circuit court clerk shall assess or collect, any other filing fees than those authorized by this section unless specifically provided by state law.

(g) The circuit court may waive the filing fee in cases of involuntary admission upon a finding that the petition is being brought for the benefit of the respondent and it would be inequitable to require the petitioner to pay the fee.

(h) As used in this section, "circuit court clerk" means the circuit clerk and, with respect to probate matters, any county clerk who serves as ex officio clerk of the probate division of the circuit court.

History. Acts 1977, No. 333, § 1; 1981, No. 824, § 2; 1981 (Ex. Sess.), No. 16, §§ 9, 11; 1981, (Ex. Sess.), No. 27, § 4; A.S.A. 1947, § 12-1710.2; Acts 1989, No. 534, § 1; 1989 (3rd Ex. Sess.), No. 34, § 3; 1995, No. 1256, § 3; 1997, No. 788, § 25; 1997, No. 1341, § 25; 1999, No. 1081, § 4; 2003, No. 1185, § 259; 2003, No. 1765, § 27; 2005, No. 65, § 1; 2005, No. 431, § 1; 2005, No. 1893, § 1; 2007, No. 663, § 15; 2009, No. 475, § 1.

Amendments. The 2007 amendment inserted (b)(2) and redesignated the remaining subdivisions accordingly.

The 2009 amendment substituted "\$150.00" for "\$140.00" in (b)(1) and made a minor stylistic change.

Effective Dates. Acts 2007, No. 663, § 56, as amended by Acts 2009, No. 345, § 7, provided:

"(a) Sections 2 through 15 of this act are effective January 1, 2008.

"(b) Sections 16 through 50 and 52 through 55 of this act are effective January 1, 2012.

"(c) Section 51 of Act 663 of 2007 is effective January 1, 2012, except:

"(1) That portion of Section 51 of Act 663 of 2007 that is referred to in Act 663 of 2007 as 16-17-933, establishing the Cleburne County District Court and departments of that court, codified as § 16-17-936 is effective July 1, 2009; and

"(2) That portion of Section 51 of Act 663 of 2007 that is referred to in Act 663 of 2007 as 16-17-950, establishing the St. Francis County District Court and departments of that court, codified as § 16-17-954 is effective July 1, 2009."

21-6-411. Prosecuting attorneys — Certain checks, orders, drafts, or other forms of presentment involving the transmission of account information.

(a) A prosecuting attorney may collect a fee if his or her office collects and processes a check, order, draft, or other form of presentment involving the transmission of account information if the check, order, draft, or other form of presentment involving the transmission of account information has been issued or passed in a manner which makes the issuance or passing an offense under:

(1) The Arkansas Criminal Code;

(2) The Arkansas Hot Check Law, §§ 5-37-301 — 5-37-306; or

(3) Section 5-37-307.

(b) A prosecuting attorney may collect a fee from any person issuing a bad check as described in subsection (a) of this section. The amount of the fee shall not exceed:

(1) Twenty-five dollars (\$25.00) if the face amount of the check, order, draft, or other form of presentment involving the transmission of account information does not exceed one hundred dollars (\$100);

(2) Forty-five dollars (\$45.00) if the face amount of the check, order, draft, or other form of presentment involving the transmission of account information is greater than one hundred dollars (\$100) but does not exceed three hundred dollars (\$300);

(3) Sixty-five dollars (\$65.00) if the face amount of the check, order, draft, or other form of presentment involving the transmission of account information is greater than three hundred dollars (\$300) but does not exceed five hundred dollars (\$500); and

(4) Ninety dollars (\$90.00) if the face amount of the check, order, draft, or other form of presentment involving the transmission of account information is greater than five hundred dollars (\$500).

(c) If the person from whom the fee is collected was a party to the offense of forgery, under §§ 5-37-101 and 5-37-201 — 5-37-214, by altering the face amount of the check, order, draft, or other form of presentment involving the transmission of account information, the face amount as altered governs for purposes of determining the amount of the fee.

(d) Fees collected under this section shall be deposited into a special fund to be administered by the prosecuting attorney.

(e)(1) In those counties in which the sheriff is operating a hot check program and the prosecuting attorney is not operating such a program on September 20, 1985, the sheriff shall be entitled to continue the program as long as he or she elects to do so and the prosecuting attorney shall not initiate any such program in the county unless the sheriff in the county discontinues his or her program.

(2) In those counties in which the sheriff operates a hot check program, the sheriff's office shall be entitled to the same fees as provided in this section, but all fees shall be paid into an account for the sheriff's office and shall be subject to appropriation by the quorum court to be used to defray the cost of the hot check program and other costs of the sheriff's office.

(f) This section is cumulative to all other acts and shall not repeal any other act.

History. Acts 1985 (1st Ex. Sess.), No. 33, §§ 2-4; A.S.A. 1947, §§ 67-727, 67-728, 67-728n; Acts 2003, No. 1088, § 1; 2011, No. 997, § 1.

Amendments. The 2011 amendment substituted "twenty-five dollars (\$25.00)" for "fifteen dollars (\$15.00)" in (b)(1); sub-

stituted "forty-five dollars (\$45.00)" for "thirty dollars (\$30.00)" in (b)(2); substituted "sixty-five dollars (\$65.00)" for "fifty dollars (\$50.00)" in (b)(3); and substituted "ninety dollars (\$90.00)" for "seventy-five dollars (\$75.00)" in (b)(4).

21-6-413. Probate and county matters — Miscellaneous court fees.

(a) Miscellaneous court fees are established as follows:

Dissolutions of incorporation	\$25.00
Articles of incorporation	25.00
Amendments to articles of incorporation	25.00
Filing last will and testament for safekeeping	5.00
Authentication certificate	5.00
Certify and seal document	5.00
Marriage license	30.00
Certified copy of marriage license	5.00
Underage marriages — Petition and order	10.00
Small estates	25.00
Assumed names	25.00
Limited partnerships	25.00
Alcoholics and insane persons	25.00
Clerk's tax deed	5.00
Recording doctors' and nurses' credentials	5.00
Recording ministers' credentials	5.00
Filing affidavit of claim against an estate	5.00
Filing power of attorney	10.00
Filing and recording all accounts and settlements	50.00
Certified copies of all letters	5.00
Issuing subpoena or summons	5.00
Putting up advertisement of settlement of executors, administrators, and guardians	5.00
Preparing notices of settlements to be published in paper each month	5.00
Filing exceptions	5.00

(b) With respect to probate matters, this section applies to circuit clerks and any county clerk who serves as ex officio clerk of the probate division of the circuit court.

(c) Any fee not specifically provided for in subsection (a) of this section shall be set by the circuit court if it is a probate matter or by the county judge if it is a county court matter.

(d) The fee provisions provided for in subsection (a) of this section shall be in lieu of any or all fees now established by law.

(e)(1)(A) Fees collected under this section shall be paid into the county treasury to the credit of the fund to be known as the "county clerk's cost fund".

(B) With the exception of those funds referred to in subdivision (e)(2) of this section, all funds deposited into the county clerk's cost fund are general revenues of the county and may be used for any legitimate county purpose.

(2)(A) At least thirty-five percent (35%) of the moneys collected annually shall be used to purchase, maintain, and operate an automated records system.

(B) The acquisition and update of software for the automated records system shall be a permitted use of these funds.

(C) Funds set aside for automation may be allowed to accumulate from year to year or at the discretion of the clerk may be transferred to the county general fund by a budgeted appropriated transfer.

(3)(A)(i) In those counties having combined offices of circuit clerk and county clerk, the clerk shall elect to use the automation fund authorized by this section or the automation fund allowed by the county recorder's cost fund, § 21-6-306.

(ii) In those counties having combined offices of county clerk and recorder, the clerk shall elect to use the automation fund authorized by this section or the automation fund allowed by the county recorder's cost fund, § 21-6-306.

(B) The clerk's election shall be made in writing and filed in the office of the circuit clerk.

(C) Under no circumstances shall the clerk be allowed to use both the automation fund as authorized by § 21-6-306 and the county clerk's cost fund as authorized in this subchapter, except for the revenue generated under § 16-20-407(b).

History. Acts 2003, No. 1765, § 28; 2009, No. 348, § 1.

Amendments. The 2009 amendment, in (e)(3)(C), added "except for the revenue

generated under § 16-20-407(b)" and made a related and a minor stylistic change.

21-6-414. [Repealed.]

Publisher's Notes. This section, concerning probate and county matters, uniform court costs, was repealed by Acts

2005, No. 1962, § 102. The section was derived from Acts 2003, No. 1185, § 260.

21-6-415. County court clerks — Uniform filing fees.

Cross References. Fee for filing a district report or affidavit, § 16-20-408.

21-6-416. Court clerks — Technology fees.

(a)(1) The court technology fee to be charged by the clerks of the Supreme Court, circuit courts, and district courts of this state shall be as prescribed in this section.

(2) No portion of the court technology fee shall be refunded.

(b) The court technology fee is as follows:

- (1) For all civil actions and misdemeanors filed in either the Supreme Court or the Court of Appeals.....\$15.00
- (2) For initiating a cause of action in the civil, domestic relations, or probate division of circuit court, including appeals15.00
- (3) For initiating a cause of action in the civil or small claims division of district court15.00

(c)(1) The fee provided under subdivision (b)(1) of this section collected in the Supreme Court or the Court of Appeals shall be remitted

by the Clerk of the Supreme Court on or before the fifteenth day of each month to the Administration of Justice Funds Section on a form provided by the Office of Administrative Services of the Department of Finance and Administration for deposit into the Judicial Fine Collection Enhancement Fund established by § 16-13-712.

(2) The fee provided under subdivisions (b)(2) and (3) of this section collected in circuit court or district court shall be remitted by the county or city official, agency, or department designated under § 16-13-709 as primarily responsible for the collection of fines assessed in circuit court or district court on or before the fifteenth day of each month to the section, on a form provided by the office, for deposit into the Judicial Fine Collection Enhancement Fund established by § 16-13-712.

(d) No fee shall be charged or collected by the clerks of the circuit or district courts when the court by order, under Rule 72 of the Arkansas Rules of Civil Procedure, allows an indigent person to prosecute a cause of action in forma pauperis.

(e) Prosecuting attorneys filing actions on behalf of the state, with the exception of child support cases, are exempt from paying fees under this section.

(f) Fees under this section shall not be charged or collected in cases brought in the circuit court under the Arkansas Juvenile Code of 1989, § 9-27-301 et seq., by a governmental entity or nonprofit corporation, including without limitation an attorney ad litem appointed in a dependency-neglect case or the Department of Human Services.

(g) As used in this section, "circuit court clerk" means the circuit clerk and with respect to probate matters any county clerk who serves as ex officio clerk of the probate division of the circuit court.

History. Acts 2009, No. 328, § 7.

SUBCHAPTER 5 — MISCELLANEOUS FEES

SECTION.

21-6-501. [Repealed.]

21-6-503. [Repealed.]

21-6-501. [Repealed.]

Publisher's Notes. This section, concerning depositions and officers, was repealed by Acts 2005, No. 726, § 1. The section was derived from Acts 1875, No.

77, § 17, p. 167; C. & M. Dig., § 4585; Pope's Dig., § 5671; A.S.A. 1947, § 12-1714.

21-6-503. [Repealed.]

Publisher's Notes. This section, concerning telephone service of summons or subpoena, was repealed by Acts 2005, No. 726, § 2. The section was derived from

Acts 1907, No. 260, § 2, p. 605; C. & M. Dig., § 4588; Pope's Dig., § 5676; A.S.A. 1947, § 12-1723.

CHAPTER 8

ETHICS AND CONFLICTS OF INTEREST

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. INCOME DISCLOSURE BY SALARIED EMPLOYEES.
3. CODE OF ETHICS.
4. DISCLOSURE BY LOBBYISTS AND STATE AND LOCAL OFFICIALS — GENERAL PROVISIONS.
6. DISCLOSURE BY LOBBYISTS.
7. DISCLOSURE BY STATE AND LOCAL OFFICIALS — STATEMENT OF FINANCIAL INTEREST.

A.C.R.C. Notes. Acts 2011, No. 950, § 7, provided: "ADVERTISING. No advertising targeting the prevention or reduction of tobacco use shall include the name, voice, or likeness of any elected

official or their immediate family.

"The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012."

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

21-8-102. Restrictions on employment of

former state regulatory officials.

21-8-102. Restrictions on employment of former state regulatory officials.

(a) As used in this section, "state regulatory official" means:

- (1) A member of the Arkansas Public Service Commission;
- (2) The Executive Director of the Arkansas Public Service Commission;
- (3) The Insurance Commissioner;
- (4) A deputy commissioner of the State Insurance Department;
- (5) The Bank Commissioner;
- (6) A Deputy Bank Commissioner;
- (7) The Securities Commissioner; and
- (8) A Deputy Securities Commissioner.

(b) A former state regulatory official shall not knowingly act as a principal or agent for anyone other than the state in connection with any of the following if the former state regulatory official participated personally and substantially through decision, approval, disapproval, recommendation, rendering of advice, investigation, or otherwise while serving in that capacity and the state is a party or has a direct or substantial interest:

- (1) A judicial, administrative, or other proceeding, application, request for a ruling, or other determination;
- (2) A contract;
- (3) A claim; or
- (4) A charge or controversy.

(c) A former state regulatory official shall not knowingly act as a principal or agent for anyone other than the state within one (1) year after cessation of the former state regulatory official's employment with

the state agency in connection with any of the following if the matters were within the former state regulatory official's official responsibility and the state is a party or has a direct or substantial interest:

- (1) A judicial, administrative, or other proceeding, application, request for a ruling, or other determination;
 - (2) A contract;
 - (3) A claim; or
 - (4) A charge or controversy.
- (d) A former state regulatory official who knowingly violates this section shall be guilty of a Class A misdemeanor.

History. Acts 2011, No. 1200, § 1.

SUBCHAPTER 2 — INCOME DISCLOSURE BY SALARIED EMPLOYEES

SECTION.

21-8-202. Penalty.

21-8-202. Penalty.

(a) Any employee of the State of Arkansas, including employees of the state-supported institutions of higher learning, who fails to file or who shall falsely file any statement as required under the provisions of this subchapter shall be guilty of a violation.

(b) Upon conviction, he or she shall be fined in an amount not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500).

History. Acts 1977, No. 849, § 5; A.S.A. 1947, § 12-1632; Acts 2005, No. 1994, § 141.

SUBCHAPTER 3 — CODE OF ETHICS

SECTION.

21-8-301. Definitions.

21-8-302. Penalties.

SECTION.

21-8-304. Prohibited activities.

21-8-301. Definitions.

As used in this subchapter:

(1) "Governmental body" means an office, department, commission, council, board, committee, legislative body, agency, or other establishment of the executive, judicial, or legislative branch of the state, municipality, county, school district, improvement district, or any political district or subdivision thereof;

(2)(A) "Public appointee" means an individual who is appointed to a governmental body.

(B) "Public appointee" does not include an individual appointed to an elective office;

(3)(A) "Public employee" means an individual who is employed by a governmental body or who is appointed to serve a governmental body.

(B) "Public employee" does not include a public official or a public appointee;

(4)(A) "Public official" means a person holding an elective office of any governmental body, whether elected or appointed to the office.

(B) "Public official" includes a person holding an elective office of any governmental body, whether elected or appointed to the office, during the time period between the date he or she is elected or appointed and the date he or she takes office; and

(5) "Public servant" means a:

(A) Public appointee;

(B) Public employee; or

(C) Public official.

History. Acts 1979, No. 570, § 1; A.S.A. 1947, § 12-3001; Acts 2005, No. 1284, § 12; 2011, No. 721, § 14.

Amendments. The 2011 amendment deleted "'state employee' means all em-

ployees of the State of Arkansas employed on a full-time or part-time basis" from the end of the introductory language; and added (1) through (5).

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2005 Arkansas General As-

sembly, Election Law, 28 U. Ark. Little Rock L. Rev. 351.

21-8-302. Penalties.

Any person who knowingly or willfully violates any provision of this subchapter shall be guilty of a Class B misdemeanor.

History. Acts 1979, No. 570, § 7; A.S.A. 1947, § 12-3007; Acts 2005, No. 1284, § 13.

21-8-304. Prohibited activities.

(a) No public servant shall use or attempt to use his or her official position to secure special privileges or exemptions for himself or herself or his or her spouse, child, parents, or other persons standing in the first degree of relationship, or for those with whom he or she has a substantial financial relationship that are not available to others except as may be otherwise provided by law.

(b) No public servant shall accept employment or engage in any public or professional activity while serving as a public official which he or she might reasonably expect would require or induce him or her to disclose any information acquired by him or her by reason of his or her official position that is declared by law or regulation to be confidential.

(c) No public servant shall disclose any such information gained by reason of his or her position, nor shall he or she otherwise use such information for his or her personal gain or benefit.

History. Acts 1979, No. 570, §§ 3, 4; 2001, No. 1839, § 22; 2007, No. 221, § 16; A.S.A. 1947, §§ 12-3003, 12-3004; Acts 2011, No. 721, § 15.

Amendments. The 2007 amendment, in (a), substituted “exemptions” for “exemption” and “are” for “is.”

The 2011 amendment substituted “servant” for “official or state employee” in (a) through (c).

RESEARCH REFERENCES

Ark. L. Rev. Recent Development: Public Officials, 58 Ark. L. Rev. 471.

CASE NOTES

Cited: Biedenharn v. Thicksten, 361 Ark. 438, 206 S.W.3d 837 (2005).

SUBCHAPTER 4 — DISCLOSURE BY LOBBYISTS AND STATE AND LOCAL OFFICIALS — GENERAL PROVISIONS

SECTION.

21-8-401. Title.

21-8-402. Definitions.

SECTION.

21-8-403. Penalty.

21-8-405. Provisions supplemental.

21-8-401. Title.

Subchapters 4 and 6-8 of this chapter may be referred to and cited as the “Disclosure Act for Lobbyists and State and Local Officials”.

History. Init. Meas. 1988, No. 1, § 1; Acts 1989, No. 719, § 1; Acts 2007, No. 827, § 175.

substituted “Subchapters 4 and 6-8” for “Subchapters 4, 5 [repealed], and 6-8,” and made a stylistic change.

Amendments. The 2007 amendment

RESEARCH REFERENCES

ALR. Validity, Construction, and Application of State and Municipal Enactments

Regulating Lobbying and of Lobbying Contracts. 35 A.L.R.6th 1.

21-8-402. Definitions.

As used in this subchapter and §§ 21-8-601 et seq., 21-8-701 et seq., and 21-8-801 et seq., unless the context otherwise requires:

(1)(A) “Administrative action” means any decision on, or proposal, consideration, or making of any rule, regulation, ratemaking proceeding, or policy action by a governmental body.

(B) “Administrative action” does not include ministerial action;

(2) “Business” means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, receivership, trust, or any legal entity through which business is conducted;

(3) “County government” means any office, department, commission, council, board, bureau, committee, legislative body, agency, or other establishment of a county;

(4) "Family" means an individual's spouse, children of that individual or his or her spouse, or brothers, sisters, or parents of the individual or his or her spouse;

(5)(A) "Gift" means any payment, entertainment, advance, services, or anything of value, unless consideration of equal or greater value has been given therefor.

(B) The term "gift" does not include:

(i)(a) Informational material such as books, reports, pamphlets, calendars, or periodicals informing a public servant regarding his or her official duties.

(b) Payments for travel or reimbursement for any expenses are not informational material;

(ii) The giving or receiving of food, lodging, or travel which bears a relationship to the public servant's office and when appearing in an official capacity;

(iii) Gifts which are not used and which, within thirty (30) days after receipt, are returned to the donor;

(iv) Gifts from an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any of these persons, unless the person is acting as an agent or intermediary for any person not covered by this subdivision (5)(B)(iv);

(v) Campaign contributions;

(vi) Any devise or inheritance;

(vii)(a) Anything with a value of one hundred dollars (\$100) or less.

(b) The value of an item shall be considered to be less than one hundred dollars (\$100) if the public servant reimburses the person from whom the item was received any amount over one hundred dollars (\$100) and the reimbursement occurs within ten (10) days from the date the item was received;

(viii) Wedding presents and engagement gifts;

(ix) A monetary or other award presented to an employee of a public school district, the Arkansas School for the Blind, the Arkansas School for the Deaf, the Arkansas School for Mathematics, Science, and the Arts, a university, a college, a technical college, a technical institute, a comprehensive life-long learning center, or a community college in recognition of the employee's contribution to education;

(x) Tickets to charitable fund-raising events held within this state by a nonprofit organization which is exempt from taxation under § 501(c)(3) of the Internal Revenue Code;

(xi) A personalized award, plaque, or trophy with a value of one hundred and fifty dollars (\$150) or less;

(xii) An item which appointed or elected members of a specific governmental body purchase with their own personal funds and present to a fellow member of that governmental body in recognition of public service;

(xiii) Food or beverages provided at a conference-scheduled event that is part of the program of the conference;

(xiv) Food or beverages provided in return for participation in a bona fide panel, seminar, or speaking engagement at which the audience is a civic, social, or cultural organization or group; and

(xv)(a) A monetary or other award publicly presented to an employee of state government in recognition of his or her contributions to the community and State of Arkansas when the presentation is made by the employee's supervisors or peers, individually or through a nonprofit organization which is exempt from taxation under § 501(c) of the Internal Revenue Code, and the employee's receipt of the award would not result in or create the appearance of the employee using his or her position for private gain, giving preferential treatment to any person, or losing independence or impartiality.

(b) The exception in subdivision (5)(B)(xv)(a) of this section shall not apply to an award presented to an employee of state government by a person having economic interests which may be affected by the performance or nonperformance of the employee's duties or responsibilities.

(6) "Governmental body" means any office, department, commission, council, board, committee, legislative body, agency, or other establishment of the executive, judicial, or legislative branch of the state, municipality, county, school district, improvement district, or any political district or subdivision thereof;

(7)(A) "Income" or "compensation" means any money or anything of value received or to be received as a claim for future services, whether in the form of a retainer, fee, salary, expense, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, or any other form of recompense or any combination thereof. It includes a payment made under obligation for services or other value received.

(B) The term "compensation" does not include anything of value presented to an employee of a public school district, the Arkansas School for the Blind, the Arkansas School for the Deaf, the Arkansas School for Mathematics and Sciences, a university, a college, a technical college, a technical institute, a comprehensive life-long learning center, or a community college in recognition of the employee's contribution to education;

(8) "Legislative action" means introduction, sponsorship, consideration, debate, amendment, passage, defeat, approval, veto, or any other official action or nonaction on any bill, ordinance, law, resolution, amendment, nomination, appointment, report, or other matter pending or proposed before a committee or house of the General Assembly, a quorum court, or a city council or board of directors of a municipality;

(9) "Legislator" means any person who is a member of the General Assembly, a quorum court of any county, or the city council or board of directors of any municipality;

(10) "Lobbying" means communicating directly or soliciting others to communicate with any public servant with the purpose of influencing legislative action or administrative action;

(11) "Lobbyist" means a person who:

(A) Receives income or reimbursement in a combined amount of four hundred dollars (\$400) or more in a calendar quarter for lobbying one (1) or more governmental bodies;

(B) Expends four hundred dollars (\$400) or more in a calendar quarter for lobbying one (1) or more governmental bodies, excluding the cost of personal travel, lodging, meals, or dues; or

(C) Expends four hundred dollars (\$400) or more in a calendar quarter, including postage, for the express purpose of soliciting others to communicate with any public servant to influence any legislative action or administrative action of one (1) or more governmental bodies unless the communication has been filed with the Secretary of State or the communication has been published in the news media. If the communication is filed with the Secretary of State, the filing shall include the approximate number of recipients;

(12) "Municipal government" means any office, department, commission, council, board, bureau, committee, legislative body, agency, or other establishment of a municipality;

(13) "Official capacity" means activities which:

(A) Arise solely because of the position held by the public servant;

(B) Would be subject to expense reimbursement by the agency with which the public servant is associated; and

(C) Involve matters which fall within the official responsibility of the public servant;

(14) "Person" means a business, individual, corporation, union, association, firm, partnership, committee, club, or other organization or group of persons;

(15)(A) "Public appointee" means an individual who is appointed to a governmental body.

(B) "Public appointee" shall not include an individual appointed to an elective office;

(16)(A) "Public employee" means an individual who is employed by a governmental body or who is appointed to serve a governmental body.

(B) "Public employee" shall not include public officials or public appointees;

(17) "Public official" means a legislator or any other person holding an elective office of any governmental body, whether elected or appointed to the office, and shall include such persons during the time period between the date they were elected and the date they took office;

(18) "Public servant" means all public officials, public employees, and public appointees;

(19) "Registered lobbyist" means a lobbyist registered pursuant to the provisions of this subchapter and §§ 21-8-601 et seq., 21-8-701 et seq., and 21-8-801 et seq.;

(20) "Special event" means a planned activity to which a specific governmental body or identifiable group of public servants is invited; and

(21) "State government" means any office, department, commission, council, board, bureau, committee, legislative body, agency, or other establishment of the State of Arkansas.

History. Init. Meas. 1988, No. 1, § 1; Acts 1989, No. 719, § 1; 1999, No. 553, §§ 36, 37; 2001, No. 239, § 1; 2001, No. 1192, §§ 1, 2; 2001, No. 1839, §§ 23-26; 2007, No. 827, §§ 176, 177.

Amendments. The 2007 amendment added “and” at the end of (13)(B).

21-8-403. Penalty.

(a) Upon conviction, any person who violates any provision of subchapter 4, 6, 7, or 8 of this chapter is guilty of a Class A misdemeanor.

(b) The culpable mental state required shall be a purposeful violation.

History. Init. Meas. 1988, No. 1, § 1; Acts 1989, No. 719, § 1; Acts 2007, No. 827, § 178.

in (a), added “Upon conviction,” substituted “subchapter 4, 6, 7, or 8” for “subchapters 4, 5 [repealed], and 6-8,” and made related and stylistic changes.

Amendments. The 2007 amendment,

21-8-405. Provisions supplemental.

Subchapters 4 and 6-8 of this chapter are supplemental to any other law pertaining to ethics or conflicts of interest and do not repeal any other law except for a law specifically repealed by subchapter 4, 6, 7, or 8 of this chapter.

History. Init. Meas. 1988, No. 1, § 1; Acts 1989, No. 719, § 1; 2007, No. 827, § 179.

Amendments. The 2007 amendment rewrote the section.

SUBCHAPTER 6 — DISCLOSURE BY LOBBYISTS

SECTION.

21-8-601. Registration required — Exceptions — Termination.

SECTION.

21-8-603. Activity reports — Inspection.
21-8-607. Prohibited acts.

21-8-601. Registration required — Exceptions — Termination.

(a)(1) A lobbyist shall register within five (5) days after beginning lobbying. Such registration shall be on forms provided by the Secretary of State containing the following information:

- (A) The name, address, and telephone number of the lobbyist;
- (B) The calendar year for which the lobbyist is registering;
- (C) The types of public servants being lobbied;
- (D) The name, address, and telephone number of the lobbyist’s client or employer;
- (E) A description of the nature of the lobbyist’s client or employer; and

(F) Certification by the lobbyist that the information contained on the lobbyist registration form is true and correct.

(2)(A) Except as provided in subdivision (a)(2)(B) of this section, if there is a change of information during the registration period, a lobbyist shall file an amended registration form within ten (10) days of the change.

(B) A lobbyist registered to lobby members of the General Assembly shall file an amended registration form within three (3) business days of a change of information that occurs during a regular or extraordinary session of the General Assembly.

(3) A lobbyist shall not be required to register if he or she engages in no lobbying other than the following activities:

(A) The publishing or broadcasting, by news media executives or their employees or agents, in the ordinary course of business, of news items, editorials, or other comments or paid advertisements which directly or indirectly urge legislative action or administrative action;

(B) Engaging in lobbying exclusively on behalf of an Arkansas church which qualifies as a tax exempt organization under § 501(c)(3) of the Internal Revenue Code when lobbying solely for the purpose of protecting the rights of members or adherents to practice the religious doctrines of the church;

(C)(i) Action in a person's official capacity as a public servant.

(ii) However, a public servant shall be required to register as a lobbyist if he or she:

(a) Receives income from a nongovernmental person in excess of four hundred dollars (\$400) in a quarter for lobbying; or

(b) Expends or is reimbursed in excess of four hundred dollars (\$400), regardless of the source, in a quarter for lobbying, excluding the cost of informational material and personal travel, lodging, meals, and dues;

(D) Drafting legislation;

(E) Appearing in:

(i) A judicial proceeding;

(ii) A proceeding or hearing if the appearance is a matter of public record; or

(iii) Any hearing or appeal proceeding conducted pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.;

(F) Assisting an executive agency, at the written request of the agency, in drafting administrative regulations or in publicizing or assisting in the implementation of final administrative actions;

(G) Testifying as an individual at a public hearing in support of or in opposition to legislation or administrative action, testifying on behalf of a corporation, partnership, association, or other organization with which the person is regularly associated as an employee, officer, member, or partner, or testifying at the request of a legislative committee; or

(H) Actions by contractors or employees of contractors while engaged in selling to a governmental body by demonstrating or describing commodities or services or inquiring as to specifications or terms and conditions of a particular purchase unless such contractor or its employees expend in excess of four hundred dollars (\$400) in a calendar quarter for food, lodging, travel, or gifts to benefit public servants who purchase commodities or services on behalf of a governmental body.

(4) A person whose only act of lobbying is to compensate or reimburse a registered lobbyist in the person's behalf shall not be required to register as a lobbyist.

(b) Upon the termination of a registered lobbyist's employment or designation as a lobbyist, the termination shall be conveyed by the registered lobbyist in writing to the public official with whom the lobbyist is registered. The written notice of termination shall:

(1) State the registered lobbyist's name;

(2) State the date the registered lobbyist's employment is terminated or his or her designation as a lobbyist terminated; and

(3) Report any activity to be reported during the period in which the registration was in effect that has not already been reported.

(c) Each registered lobbyist whose employment or designation as a lobbyist has not terminated shall reregister by January 15 of each year.

History. Init. Meas. 1988, No. 1, § 1; Acts 1989, No. 719, § 2; 2001, No. 1839, § 27; 2005, No. 1284, § 14.

RESEARCH REFERENCES

ALR. Validity, Construction, and Application of State and Municipal Enactments Regulating Lobbying and of Lobbying Contracts. 35 A.L.R.6th 1.

U. Ark. Little Rock L. Rev. Survey of Legislation, 2005 Arkansas General Assembly, Election Law, 28 U. Ark. Little Rock L. Rev. 351.

21-8-602. Other filings required.

RESEARCH REFERENCES

ALR. Validity, Construction, and Application of State and Municipal Enactments

Regulating Lobbying and of Lobbying Contracts. 35 A.L.R.6th 1.

21-8-603. Activity reports — Inspection.

(a)(1) Within fifteen (15) days after the end of each calendar quarter, each registered lobbyist shall file a complete and detailed statement, signed and sworn to, concerning his or her lobbying activities during the previous calendar quarter.

(2)(A) A registered lobbyist who lobbies members of the General Assembly shall file a monthly lobbyist activity report, signed and sworn to, for any month in which the General Assembly is in session. A quarterly report is not required if the registered lobbyist has filed monthly lobbyist activity reports for each month of the calendar quarter.

(B) The monthly lobbyist activity report shall be filed within ten (10) days after the end of each month.

(b)(1) Lobbyist activity reports shall be open to public inspection.

(2) Beginning January 1, 2010, all lobbyist activity reports that are required to be filed with the Secretary of State shall be filed in electronic form through the Internet.

(c) The Secretary of State shall provide a form to be filed simultaneously with the lobbyist activity report that:

(1) Is signed by a registered lobbyist under penalty of perjury under § 5-53-102; and

(2) Certifies that the lobbyist activity report is accurate.

History. Init. Meas. 1988, No. 1, § 1; Acts 1989, No. 719, § 2; 1999, No. 553, § 38; 2009, No. 963, § 1.

Amendments. The 2009 amendment added the (b)(1) designation; and added (b)(2) and (c).

RESEARCH REFERENCES

ALR. Validity, Construction, and Application of State and Municipal Enactments Regulating Lobbying and of Lobbying Contracts. 35 A.L.R.6th 1.

21-8-604. Activity reports — Required contents.

RESEARCH REFERENCES

ALR. Validity, Construction, and Application of State and Municipal Enactments Regulating Lobbying and of Lobbying Contracts. 35 A.L.R.6th 1.

21-8-607. Prohibited acts.

(a) No person shall purposely employ any lobbyist who is required to register as a registered lobbyist but is not registered pursuant to this chapter.

(b) No person engaging in lobbying shall:

(1) Influence or attempt to influence, by coercion, bribery, or threat of economic sanction, any public servant in the discharge of the duties of his or her office;

(2) Purposely provide false information to any public servant as to any material fact pertaining to any legislative or administrative action;

(3) Purposely omit, conceal, or falsify in any manner information required by the registration and lobbyist activity reports;

(4) Contract to receive or accept compensation that is dependent in any manner upon:

(A) The success or failure of a legislative or administrative action; or

(B) The outcome of any executive, legislative, or administrative action relating to the solicitation or securing of a procurement contract; or

(5)(A) Provide payment for food or beverages at any location or event at which the lobbyist is not present physically.

(B) Subdivision (b)(5)(A) of this section shall not apply to a special event under § 21-8-402(20).

(c)(1) A person convicted of violating subsection (a) or subsection (b) of this section is:

(A) Prohibited from acting as a registered lobbyist for a period of three (3) years from the date of the conviction; and

(B) Subject to a fine of not less than one hundred dollars (\$100) and not more than one thousand dollars (\$1,000).

(2) Any person violating the three-year ban shall be deemed guilty of an additional violation of this subchapter.

(d) Any person who acts as a lobbyist as defined by § 21-8-402(11) but purposely fails to register within five (5) days of beginning lobbying activities as required by § 21-8-601 is subject to a fine of not less than five hundred dollars (\$500) and not more than one thousand dollars (\$1,000).

(e)(1) On a lobbyist registration form, a person acting as a lobbyist shall not:

(A) Purposely provide false information; or

(B) Purposely omit information.

(2) A person who violates subdivision (e)(1) of this section shall:

(A) Not be considered a registered lobbyist; and

(B) Be subject to a fine of not less than five hundred dollars (\$500) and not more than one thousand dollars (\$1,000).

(f) A person convicted of three (3) or more violations of a provision of this subchapter shall be permanently prohibited from acting as a registered lobbyist in this state.

(g) An expunged record shall not serve as the basis for disqualification under this section.

History. Init. Meas. 1988, No. 1, § 1; Acts 1989, No. 719, § 2; 2009, No. 963, § 2.

Amendments. The 2009 amendment added (b)(4) and (b)(5); rewrote (c); and added (d) through (g).

SUBCHAPTER 7 — DISCLOSURE BY STATE AND LOCAL OFFICIALS — STATEMENT OF FINANCIAL INTEREST

SECTION.

21-8-701. Persons required to file — Exceptions — Contents.

21-8-701. Persons required to file — Exceptions — Contents.

(a) The following persons shall file a written statement of financial interest:

(1) A public official, as defined in § 21-8-402(17);

(2) A candidate for elective office;

(3) A district judge or city attorney, whether elected or appointed;

(4) Any agency head, department director, or division director of state government or a chief of staff or chief deputy of a constitutional officer, the Senate, or the House of Representatives;

(5)(A) Any public appointee to any state board or commission that is authorized or charged by law with the exercise of regulatory authority or is authorized to receive or disburse state or federal funds.

(B) A public appointee to a state board or commission that is not charged by law with the exercise of regulatory authority and that receives or disburses state or federal funds only in the form of mileage

reimbursement for members attending meetings of the board or commission shall not be required to file a written statement of financial interest;

(6) All persons who are elected members of a school board or who are candidates for a position on a school board;

(7) All public and charter school superintendents;

(8) Executive directors of education service cooperatives; and

(9) Any person appointed to one (1) of the following types of regional, municipal, or county boards or commissions:

(A) A planning board or commission;

(B) An airport board or commission;

(C) A water or sewer board or commission;

(D) A utility board or commission; or

(E) A civil service commission.

(b) A member of a levee district or a levee and drainage district or any candidate therefor shall not be required to file a written statement of financial interest under this section.

(c)(1)(A) The statement of financial interest for the previous calendar year shall be filed by January 31 of each year, except that a candidate for elective office shall file the statement of financial interest for the previous calendar year on the first Monday following the close of the period to file as a candidate for the elective office, and persons identified in subdivisions (a)(4) and (5) of this section shall file the statement of financial interest within thirty (30) days after appointment or employment.

(B) If a person is included in any category listed in subsection (a) of this section for any part of a calendar year, then such person shall file a statement of financial interest covering that period of time regardless of whether the person has left his or her office or position as of the date that statement of financial interest is due.

(2) Any incumbent officeholder who filed the statement of financial interest by January 31 of the year in which the election is held shall not be required to file an additional statement upon becoming a candidate for reelection or election to another office at any election held during the year.

(d) The statement of financial interest shall include the following:

(1) The name of the public servant or candidate and his or her spouse and all names under which they do business;

(2) The reasons for filing the statement of financial interest;

(3)(A) Identification of each employer and of each other source of gross income amounting to more than one thousand dollars (\$1,000) annually received by the person or his or her spouse in their own names, or by any other person for the use or benefit of the public servant or candidate or his or her spouse, and a brief description of the nature of the services for which the compensation was received, except that this subdivision (d)(3) shall not be construed to require the disclosure of individual items of income that constitute a portion of the gross income of the business or profession from which the public servant or candidate or his or her spouse derives income; and

(B) In addition thereto, identification of each source of gross income as described above of more than twelve thousand five hundred dollars (\$12,500), except that this shall not be construed to require the disclosure of individual items of income that constitute a portion of the gross income of the business or profession from which the public servant or candidate or his or her spouse derives income;

(4)(A) The name and address of every business in which the public servant or candidate and his or her spouse, or any other person for the use or benefit of the public servant or candidate or his or her spouse, have an investment or holdings of over one thousand dollars (\$1,000) at fair market value as of the last day of the previous calendar year; and

(B) In addition thereto, identification of each source as described above that has a fair market value of over twelve thousand five hundred dollars (\$12,500) as of the last day of the previous calendar year;

(5) Every office or directorship held by the public servant or candidate or his or her spouse in any business, corporation, firm, or enterprise subject to jurisdiction of a regulatory agency of this state or of any of its political subdivisions;

(6)(A) The name and address of each creditor to whom the value of five thousand dollars (\$5,000) or more was personally owed or personally obligated and is still outstanding by the public servant or candidate.

(B)(i) Loans made in the ordinary course of business by either a financial institution or a person who regularly and customarily extends credit shall not be required to be disclosed.

(ii) Debts owed to the members of the public servant's or candidate's family need not be included;

(7)(A) The name and address of each guarantor or co-maker, other than a member of the public servant's or candidate's family, who has guaranteed a debt of the public servant or candidate that is still outstanding.

(B)(i) This requirement shall be applicable only to debt guaranties for debts assumed or arising after January 1, 1989.

(ii) Guaranteed debts existing prior to January 1, 1989, which are extended or refinanced shall become subject to disclosure in the annual financing statement due to be filed after the conclusion of the year in which such extension or refinancing occurred;

(8) The source, date, description, and a reasonable estimate of the fair market value of each gift of more than one hundred dollars (\$100) received by the public servant or candidate or his or her spouse or more than two hundred fifty dollars (\$250) received by his or her dependent children;

(9) Each monetary or other award of more than one hundred dollars (\$100) received by the public servant or candidate in his or her capacity as an employee of a public school district, the Arkansas School for the Blind, the Arkansas School for the Deaf, the Arkansas School for

Mathematics, Sciences, and the Arts, a university, a college, a technical college, a technical institute, a comprehensive life-long learning center, or a community college in recognition of his or her contribution to education;

(10) Each nongovernmental source of payment of the public servant's expenses for food, lodging, or travel that bears a relationship to the public servant's office when the public servant is appearing in his or her official capacity when the expenses incurred exceed one hundred fifty dollars (\$150). The public servant shall identify the name and business address of the person or organization paying the public servant's expenses and the date, nature, and amount of that expenditure if not compensated by the entity for which the public servant serves;

(11) Any public servant who is employed by any business that is under direct regulation or subject to direct control by the governmental body which he or she serves shall set out this employment and the fact that the business is regulated by or subject to control of the governmental body on the statement of financial interest; and

(12) If a public servant or any business in which he or she or his or her spouse is an officer, director, stockholder owning more than ten percent (10%) of the stock of the company, and the owner, trustee, or partner shall sell any goods or services having a total annual value in excess of one thousand dollars (\$1,000) to the governmental body in which the public servant serves or is employed, then the public servant shall set out in detail the goods or services sold, the governmental body to which they were sold, and the compensation paid for each category of goods or services sold.

(e) All statements of financial interest required to be filed with the Secretary of State on or after January 1, 2010, shall be made publicly accessible at no charge by the Secretary of State in electronic form through the Internet.

History. Init. Meas. 1988, No. 1, § 1; Acts 1989, No. 719, § 3; 1991, No. 240, § 1; 1999, No. 553, §§ 41-44; 1999, No. 1172, § 1; 2001, No. 1599, § 22; 2001, No. 1839, § 30; 2005, No. 1284, § 15; 2007, No. 221, § 17; 2007, No. 267, § 1; 2007, No. 617, § 42; 2009, No. 473, § 13; 2009, No. 963, §§ 3, 4.

Amendments. The 2007 amendment by No. 221 inserted "or candidate" and "or candidate's" throughout (d); substituted "Arkansas School for Mathematics, Sciences, and the Arts" for "Arkansas School for Mathematics and Science" in (d)(9); and in (d)(10), inserted "and amount" and made related changes.

The 2007 amendment by No. 267 substituted "on the first Monday following the

close of the period to file as a candidate for the elective office" for "within thirty (30) days after the deadline for filing for office for which he or she seeks election" in (c)(1)(A).

The 2007 amendment by No. 617, in (a)(8), substituted "Executive directors" for "Directors" and substituted "education service cooperatives" for "educational cooperatives."

The 2009 amendment by No. 473 inserted "and address" in (d)(4)(A).

The 2009 amendment by No. 963 added "or a chief of ... House of Representatives" in (a)(4); and added (e).

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of assembly, Election Law, 28 U. Ark. Little
Legislation, 2005 Arkansas General As- Rock L. Rev. 351.

CHAPTER 9

LIABILITY OF STATE AND LOCAL GOVERNMENTS

SUBCHAPTER.

3. LIABILITY OF POLITICAL SUBDIVISIONS.

SUBCHAPTER 3 — LIABILITY OF POLITICAL SUBDIVISIONS

SECTION.

21-9-301. Tort liability — Immunity declared.

Effective Dates. Acts 2011, No. 993, § 18: Apr. 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public charter schools; and that this act is immediately necessary so that the affected public charter schools will receive the amount of

funding provided under this act for the current school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

21-9-301. Tort liability — Immunity declared.

(a) It is declared to be the public policy of the State of Arkansas that all counties, municipal corporations, school districts, public charter schools, special improvement districts, and all other political subdivisions of the state and any of their boards, commissions, agencies, authorities, or other governing bodies shall be immune from liability and from suit for damages except to the extent that they may be covered by liability insurance.

(b) No tort action shall lie against any such political subdivision because of the acts of its agents and employees.

History. Acts 1969, No. 165, § 1; A.S.A. 1947, § 12-2901; Acts 1991, No. 542, § 7; 1993, No. 292, § 2; 1999, No. 984, § 1; 2011, No. 993, § 17.

The 2011 amendment inserted "public charter schools" in (a).

RESEARCH REFERENCES

ALR. Comment Note: Governmental Liability for Failure to Reduce Vegetation Obscuring View at Railroad Crossing or at Street or Highway Intersection. 50

A.L.R.6th 95.

Municipal Liability for Damage Resulting from Obstruction or Clogging of Drain or Sewer. 54 A.L.R.6th 201.

CASE NOTES

ANALYSIS

In General.
Applicability.
Civil Rights Actions.
Insurance Coverage.
Intentional Torts.
Negligence.

In General.

Qualified immunity afforded by this section had to be asserted and proven as an affirmative defense; it was incumbent upon the school district to plead and prove that it was entitled to the immunity due to a lack of insurance, and the student's complaint did not have to allege the absence of insurance in order to state a cause of action. *Vent v. Johnson*, 2009 Ark. 92, 303 S.W.3d 46 (2009).

Applicability.

Mayor was entitled to summary judgment on police chief's claim under the Arkansas Civil Rights Act of 1993, § 16-123-101 et seq., because the mayor was entitled to qualified immunity; the mayor could not have reasonably known that his termination of the police chief's employment, which was done upon the discovery of missing or incomplete police reports 15 days after the police chief made a statement at a city council meeting, would violate the police chief's constitutional right to free speech under Ark. Const. art. 2, § 6. *Smith v. Brt*, 363 Ark. 126, 211 S.W.3d 485 (2005).

Although the former police chief alleged a violation of the right to freedom of speech under Ark. Const. art. 2, § 6, he failed to raise a genuine issue of fact as to whether the mayor would have known that his termination of the chief's employment as police chief violated that clearly established right; because the chief did not raise a genuine issue of fact as to whether the mayor would have known that the dismissal violated the chief's clearly established constitutional right,

the mayor was entitled to qualified immunity under § 21-9-301. *Smith v. Brt*, 363 Ark. 126, 211 S.W.3d 485 (2005).

Educational cooperative, unless covered by liability insurance for the damages alleged in a complaint against it, was immune from liability and from suit for damages under this section because it was an agency of a school district. *Ark. River Educ. Servs. v. Modacure*, 371 Ark. 466, 267 S.W.3d 595 (2007).

This section provides city employees with immunity from civil liability for negligent acts, but not for intentional acts. *City of Fayetteville v. Romine*, 373 Ark. 318, 284 S.W.3d 10 (2008), rehearing denied, — Ark. —, — S.W.3d —, 2008 Ark. LEXIS 384 (June 5, 2008).

Civil Rights Actions.

Trial court erred in denying a city employee's motion for summary judgment in a property owner's action for violation of civil rights where the employee established that the employee was entitled to qualified immunity; because sewer lines were not owned by the city, but were instead private lines, the city, and by extension, the employee, owed no duty to the owner. *City of Fayetteville v. Romine*, 373 Ark. 318, 284 S.W.3d 10 (2008), rehearing denied, — Ark. —, — S.W.3d —, 2008 Ark. LEXIS 384 (June 5, 2008).

In a former inmate's action for damages stemming from a rape by a county jailer, a county judge was entitled to summary judgment dismissing the civil rights claims under § 16-123-105 on immunity grounds under this section because the inmate failed to establish that the County acted with deliberate indifference when it hired the jailer where the inmate only offered unsupported allegations that the jailer had previously inappropriately hugged and kissed a 16-year-old female inmate; an unwanted hug and kiss were not nearly identical enough to the inmate's allegations to constitute deliberate

indifference. *Gentry v. Robinson*, 2009 Ark. 634, — S.W.3d — (2009).

Insurance Coverage.

Immunity for negligent torts afforded to school districts and employees was qualified, and an employee or district could be sued to the extent that applicable coverage existed under a policy of insurance; however, the appellate court could not determine whether there was insurance coverage because the actual policy was not included for review and, as the school district had the burden to make the insurance policy a part of the record, the denial of the school district's motion for summary judgment on parent's negligence claim was affirmed. *Helena-West Helena Sch. Dist. v. Monday*, 361 Ark. 82, 204 S.W.3d 514 (2005).

Under this section, the city and its employees enjoy immunity from liability and from suits for damages, except to the extent that the city is covered by liability insurance, or acts as a self-insured for certain amounts as provided by statute. *City of Farmington v. Smith*, 366 Ark. 473, 237 S.W.3d 1 (2006).

Even though this section provided immunity to a public school district with regard to a mother's claim, that it negligently failed to provide adequate supervision for her disabled child, which resulted in the child's being sexually assaulted by a fellow special needs student at school, the school district was denied summary judgment as to that claim because it failed to present any evidence showing that its liability insurance policy did not cover that claim: (1) the statute granted immunity to the school district, except to the extent that it was covered by liability insurance; (2) therefore, in order to establish its immunity as a matter of law, the school district had to show that the mother's negligence claim was not covered by its insurance policy; and (3) the school district did not prove that it did not have insurance coverage with regard to the mother's claim because it did not present a copy of its insurance policy to support its summary judgment motion. *Finch v. Texarkana Sch. Dist. No. 7*, 557 F. Supp. 2d 976 (W.D. Ark. 2008).

Intentional Torts.

Although this section did not apply to give a public school district immunity as

to the intentional infliction of emotional distress claim (IIED) asserted by a disabled child's mother, arising from the fact that the child was sexually assaulted by a fellow special needs student at school, because IIED was an intentional tort of outrage and this section did not provide immunity as to intentional torts, the district court was nevertheless granted summary judgment as to the mother's IIED claim because she did not show that a material factual dispute existed as to whether its conduct was so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency and to be utterly intolerable in a civilized society. *Finch v. Texarkana Sch. Dist. No. 7*, 557 F. Supp. 2d 976 (W.D. Ark. 2008).

Trial court erred in failing to dismiss a property owner's claim against a city for reimbursement for construction of a retaining wall on his property in order to maintain a ditch on an adjacent city right-of-way because recovery on a negligence or trespass claim would be statutorily barred. *City of Alexander v. Doss*, 102 Ark. App. 232, 284 S.W.3d 74 (2008).

Battery claim against a police officer survived a motion for summary judgment because this section provided city employees with immunity from civil liability for negligent acts but not for intentional acts. *Martin v. Hallum*, 2010 Ark. App. 193, — S.W.3d — (2010).

Negligence.

Judge sued for damages following an automobile accident was not entitled to immunity where the evidence did not establish that he was acting within the scope of his employment at the time of the accident; in addition, because the judge failed to make a motion for a directed verdict on the issue of immunity, the issue was waived for appellate review. *Carlew v. Wright*, 356 Ark. 208, 148 S.W.3d 237 (2004).

According to this section, city employees have immunity from civil liability for negligent acts, but not for intentional acts. *City of Farmington v. Smith*, 366 Ark. 473, 237 S.W.3d 1 (2006).

Cited: *S. Farm Bureau Cas. Ins. Co. v. Spears*, 360 Ark. 200, 200 S.W.3d 436 (2004); *Butler v. City of El Dorado*, — F. Supp. 2d —, 2006 U.S. Dist. LEXIS 34656 (May 24, 2006); *Passmore v. Hinchey*, 2010 Ark. App. 581, — S.W.3d — (2010).

21-9-303. Motor vehicle liability insurance required — Minimum amounts.

CASE NOTES

ANALYSIS

Liability.
Political Subdivision.

Liability.

This section requires all municipalities to carry liability insurance on their vehicles or be treated as self-insurers, but the statute does not require a municipality to guarantee the solvency of its insurer; thus, where coverage was in effect when the accident occurred and there was no evidence that the city could have anticipated that its carrier would become insolvent, once the city's insurer did become insolvent, the city should not have

been relegated to the status of a self-insurer. *Taylor v. City of N. Little Rock*, 88 Ark. App. 48, 194 S.W.3d 797 (2004).

Political Subdivision.

In a negligence action stemming from a motor vehicle accident, the trial court erred in declaring the city to be self-insurer because, at the time of the accident, the city had in full force and effect a motor vehicle liability insurance policy and there was no evidence that the city could have anticipated that its carrier would become insolvent. *Taylor v. City of N. Little Rock*, — Ark. App. —, — S.W.3d —, 2004 Ark. App. LEXIS 690 (Oct. 6, 2004).

CHAPTER 12

TERMINATION OF SERVICE

SUBCHAPTER.

1. GENERAL PROVISIONS.
4. DELIVERY OF RECORDS TO SUCCESSOR.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

21-12-101. Limitation of employment for

preparers of certain grant applications.

21-12-101. Limitation of employment for preparers of certain grant applications.

(a) For a period of one (1) year after leaving state employment, a person whose principal function in state employment is to apply for or assist in the preparation of applications for state or federal grants shall not assist, for compensation, another person applying for a grant of state or federal funds.

(b) Any person violating this section shall be guilty of a violation and subject to a fine not exceeding five thousand dollars (\$5,000).

History. Acts 1983, No. 900, §§ 1, 2; A.S.A. 1947, §§ 12-2380, 12-2380.1; Acts 2005, No. 1994, § 142.

SUBCHAPTER 4 — DELIVERY OF RECORDS TO SUCCESSOR

SECTION.

21-12-406. Failure to execute warrant —
Recovery.

21-12-406. Failure to execute warrant — Recovery.

If an officer receives a warrant issued under § 21-12-403 and fails to execute or return the warrant, the officer shall be liable to the county in a civil action for an amount between one hundred dollars (\$100) and five hundred dollars (\$500).

History. Rev. Stat., ch. 121, § 7; C. & A.S.A. 1947, § 12-2007; Acts 2005, No. M. Dig., § 8338; Pope's Dig., § 10934; 1994, § 473.

CHAPTER 13

STATE AND LOCAL GOVERNMENT VOLUNTEERS ACT

SECTION.

21-13-105. Development of programs —
Use of volunteers.

SECTION.

21-13-108. Liability insurance — Sover-
eign immunity.

21-13-105. Development of programs — Use of volunteers.

(a) Every department, through its executive head, may develop volunteer programs and accept the services of volunteers, including regular-service volunteers, occasional-service volunteers, or material donors to assist in programs carried out or administered by that department.

(b) Each department that utilizes the services of volunteers may:

(1) Enlist the services of the Division of Community Service and Nonprofit Support of the Department of Human Services to assist in the development of volunteer programs;

(2) Take actions as are necessary and appropriate to develop meaningful opportunities for volunteers involved in those programs and to improve public services;

(3) Develop written rules governing recruitment, training, screening, responsibility, utilization, and supervision of volunteers;

(4) Take action as is necessary to ensure that volunteer and paid staff of the department understand their respective duties and responsibilities, their relationship to each other, and their respective roles in fulfilling the objectives of their department;

(5) Take actions as are necessary and appropriate to assure a receptive climate to attract citizen volunteers; and

(6) Provide for the recognition of volunteers who have offered exceptional service to the state, its political subdivisions, or school districts.

History. Acts 1981, No. 42, §§ 3, 4; 2011, No. 42, § 3.

A.S.A. 1947, §§ 12-3703, 12-3704; Acts **Amendments.** The 2011 amendment

substituted "Community Service and Nonprofit Support of" for "Volunteerism in" in (b)(1).

21-13-108. Liability insurance — Sovereign immunity.

(a) Liability insurance may be provided by the department utilizing volunteer services, both to regular-service and occasional-service volunteers, to the same extent as may be provided by the department to its paid staff.

(b) Volunteers in state service shall enjoy the protection of the state's sovereign immunity to the same extent as paid staff.

History. Acts 1981, No. 42, § 5; A.S.A. 1947, § 12-3705; Acts 2005, No. 1962, § 103.

CHAPTER 14 NOTARIES PUBLIC

SUBCHAPTER.

1. GENERAL PROVISIONS.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

21-14-101. Appointment and commission.
21-14-102. Change of residence.
21-14-103. Change in personal information.
21-14-106. Acknowledgments and authentications.

SECTION.

21-14-107. Signature — Seal.
21-14-108. Expiration date of commission.
21-14-112. Denial or revocation of notary public commission.
21-14-114. Rules and regulations.

Effective Dates. Acts 2005, No. 2274, § 5, provided: "This act shall become effective on January 1, 2006."

21-14-101. Appointment and commission.

(a)(1) The Secretary of State may appoint and commission an individual person as a notary public in this state.

(2) Effective January 1, 2006, a notary public may perform notarial acts in any part of the state for a term of ten (10) years, beginning on the date of commission or the date of renewal of a commission issued by the Secretary of State.

(b) Every applicant for appointment and commission as a notary public shall complete an application to be filed with the Secretary of State stating:

(1) That he or she is:

(A) Either a:

(i) Bona fide citizen of the United States; or

(ii) Permanent resident alien who shall file with his or her application a recorded Declaration of Domicile;

(B) A legal resident of Arkansas or an adjoining state and employed in the State of Arkansas;

(C) Eighteen (18) years of age or older; and

(D) Able to read and write English;

(2) The address of his or her business or residence in this state; and

(3) That during the past ten (10) years, his or her commission as a notary public has not been revoked.

(c) The application shall be sent to the Secretary of State with a fee of twenty dollars (\$20.00) for the notary public commission.

(d) Every notary public shall file in the office of the recorder of deeds for the county where the notary public resides or in the case of a resident of an adjoining state, in the county in Arkansas where employed, either:

(1) A surety bond executed by a surety insurer authorized to do business in Arkansas to the state for the faithful discharge of the notary public's duties in the sum of seven thousand five hundred dollars (\$7,500), to be approved by the Secretary of State; or

(2) A surety contract guaranteeing the notary public's faithful discharge of his or her duties executed to the State of Arkansas for not more than an aggregate seven thousand five hundred dollars (\$7,500), issued by a general business corporation validly organized and formed under the laws of this state pertaining to domestic corporations and which:

(A) Has previously registered with the Insurance Commissioner on forms prescribed by the commissioner evidencing the corporation's purpose to issue only surety contracts for notaries public pursuant to the provisions of this section;

(B) Has previously deposited and thereafter maintains with the commissioner securities in the sum of not less than ten thousand dollars (\$10,000) executed to the State of Arkansas that are issued by a nonaffiliated corporate entity and are approved by the commissioner; and

(C) Is not otherwise transacting any insurance business in this state that requires compliance with the provisions of the Arkansas Insurance Code.

(e)(1) The obligation of an issuer of a bond required by subsection (d) of this section:

(A) Shall be solely to the State of Arkansas; and

(B) Is solely for the benefit of the State of Arkansas.

(2) Under no circumstances shall the aggregate liability of the issuer exceed the amount of the bond.

(f)(1) Every notary public shall sign the following declaration in the presence of the circuit clerk for the county where the notary public

resides or if a resident of another state, the circuit clerk for the county in Arkansas where employed:

"I, (name of notary), solemnly swear or affirm that I have carefully read the notary laws of this state, and I will uphold the Constitutions of the United States and the State of Arkansas and will faithfully perform to the best of my ability all notarial acts in accordance with the law.

(Signature of notary)

Subscribed and sworn to before me (name of circuit clerk), Circuit Clerk for the County of (name of county), State of Arkansas, on this ____ day of _____, (year).

(Signature of circuit clerk)"

(2) The notary public shall send an executed and signed original of the declaration to the Secretary of State.

(g) Effective January 1, 2006, the Secretary of State shall issue a commission number to each new notary public and to each notary public who renews his or her commission.

History. Acts 1874, No. 17, § 1, p. 61; C. & M. Dig., § 7969; Pope's Dig., § 10362; Acts 1981, No. 672, § 1; 1985, No. 966, § 1; A.S.A. 1947, § 12-1401; Acts 1989, No. 304, § 2; 2001, No. 1274, § 1; 2005, No. 2274, § 1; 2009, No. 1404, § 1.

A.C.R.C. Notes. Acts 2005, No. 2274, § 5, provided: "This act shall become effective on January 1, 2006."

Amendments. The 2009 amendment inserted present (e) and redesignated the remaining subsections accordingly.

CASE NOTES

Liability of Notary.

Issue of fact remained as to whether a notary was liable for witnessing forged signatures pursuant to § 21-14-111, and therefore whether the surety was liable on its bond issued under this section, be-

cause, if she recognized the signature, she was permitted to witness it without watching the signer sign the documents. *Southern Dev. Corp. v. Freightliner of New Hampshire, Inc.*, 2009 Ark. App. 286, 307 S.W.3d 597 (2009).

21-14-102. Change of residence.

(a)(1) Upon receiving notification of a change of residency, the Secretary of State shall transfer a notary public's appointment and commission to the new county of residence in instances in which a person appointed and commissioned a notary public under § 21-14-101 changes residence to a county within this state other than the county where the notary public resided on the date of commission.

(2) Upon receiving notification of a change in place of employment, the Secretary of State shall transfer a notary public's appointment and commission to the new county of employment in the case of a resident of an adjoining state changing his or her place of employment to a county within this state other than the county where the notary public was employed on the date of commission.

(b) The original bond shall also be filed by the notary public in the new county of residence or if the notary public is a resident of an adjoining state, in the new county of employment in Arkansas.

History. Acts 1983, No. 21, § 1; 1985, No. 966, § 2; A.S.A. 1947, § 12-1401.1; Acts 2005, No. 2274, § 1.

A.C.R.C. Notes. Acts 2005, No. 2274, § 5, provided: "This act shall become effective on January 1, 2006."

21-14-103. Change in personal information.

(a) If any notary public has a change in his or her mailing address or status in life that alters the information on record with the Secretary of State and the circuit clerk for the county where the notary public resides or if the notary public is a resident of an adjoining state, the circuit clerk for the county in Arkansas where he or she is employed, the notary public shall be responsible for providing that change of information to the Secretary of State and the circuit clerk within thirty (30) calendar days of the change.

(b) If the change in status involves a court order, the notary public shall be responsible for providing the Secretary of State with a certified copy of the court order within thirty (30) calendar days of the filing of the court order with the clerk.

(c) If the notary public marries and the notary public's name changes, a certified copy of the marriage certificate shall be delivered to the office of the Secretary of State and the circuit clerk for the county where the notary public resides or if the notary public is a resident of an adjoining state, the circuit clerk for the county in Arkansas where he or she is employed.

History. Rev. Stat., ch. 104, § 6; C. & M. Dig., § 7975; Pope's Dig., § 10368; A.S.A. 1947, § 12-1410; Acts 2001, No. 1274, § 2; 2005, No. 2274, § 1.

A.C.R.C. Notes. Acts 2005, No. 2274, § 5, provided: "This act shall become effective on January 1, 2006."

21-14-106. Acknowledgments and authentications.

(a) A notary public may:

(1) Take the proof or the acknowledgment of all instruments of writing relating to commerce and navigation;

(2) Receive and authenticate acknowledgments of deeds, letters of attorney, and other instruments of writing;

(3) Make declarations and protests; and

(4) Certify under his or her official seal the truth of all matters and things done by virtue of his or her office.

(b) A notary public may supervise the making of a photocopy of an original document and attest that the document is a copy if the document is not:

(1) A vital record in this state, another state, a territory of the United States, or another country; or

(2) A public record, if a copy can be made by the custodian of the public record.

History. Rev. Stat., ch. 104, § 4; C. & M. Dig., § 7973; Pope's Dig., § 10366;

A.S.A. 1947, § 12-1404; Acts 2001, No. 1274, § 3; 2005, No. 2274, § 2.

A.C.R.C. Notes. Acts 2005, No. 2274, § 5, provided: "This act shall become effective on January 1, 2006."

21-14-107. Signature — Seal.

(a)(1) At the time of notarization, the notary public shall sign his or her official signature on every notary certificate.

(2) The official signature shall be the signature on file with the Secretary of State at the time of signing.

(b)(1) Under or near a notary public's official signature on every notary certificate, the notary public shall provide a seal of his or her office, which shall be either a rubber stamp seal or a seal embosser. The seal shall be clear and legible and capable of photographic reproduction.

(2) The seal shall include:

(A) The notary public's name exactly as he or she writes his or her official signature;

(B) The name of the county where the notary public's bond is filed;

(C) The words "notary public" and "Arkansas";

(D) The date upon which the notary public's commission expires; and

(E) The notary public's commission number issued by the Secretary of State if the notary public has been issued a commission number.

(c) A notary seal shall not include the Seal of the State of Arkansas or an outline of the state.

(d) The seal and certificate of the notary public commission are the exclusive property of the notary public and must be kept in the exclusive control of the notary public.

(e) The seal and certificate of the notary public commission shall not be surrendered to an employer upon termination of employment, regardless of whether or not the employer paid for the seal or for the commission.

History. Rev. Stat., ch. 104, § 7; C. & M. Dig., § 7976; Pope's Dig., § 10369; Acts 1981, No. 672, § 2; A.S.A. 1947, § 12-1402; Acts 2001, No. 1274, § 4; 2005, No. 1962, § 104; 2005, No. 2274, § 2.

A.C.R.C. Notes. Acts 2005, No. 2274, § 5, provided: "This act shall become effective on January 1, 2006."

21-14-108. Expiration date of commission.

(a)(1) Every notary public shall attach to any certificate of acknowledgment or jurat to an affidavit that he or she may make a statement of the date on which his or her commission will expire.

(2) No acknowledgment or other act of a notary public shall be held invalid on account of the failure to comply with this section.

(b) No notary public shall perform any official act after the expiration of his or her commission as evidenced by his or her certificate.

(c) Thirty (30) calendar days prior to the expiration of a notary public's commission, he or she shall submit to the Secretary of State a

new application along with the fee of twenty dollars (\$20.00) for the renewal of the commission.

(d) Every notary public shall file in the office of the recorder of deeds for the county where the notary public resides or if the notary public is a resident of an adjoining state, in the office of the recorder of deeds for the county in Arkansas where employed, either:

(1) A surety bond executed by a surety insurer authorized to do business in Arkansas for the faithful discharge of the notary public's duties in the sum of seven thousand five hundred dollars (\$7,500), to be approved by the Secretary of State; or

(2) A surety contract guaranteeing the notary public's faithful discharge of his or her duties executed to the State of Arkansas for not more than an aggregate seven thousand five hundred dollars (\$7,500), issued by a general business corporation validly organized and formed under the laws of this state pertaining to domestic corporations and which:

(A) Has previously registered with the Insurance Commissioner on forms prescribed by the commissioner evidencing the corporation's purpose to issue only surety contracts for notaries public pursuant to the provisions of this section;

(B) Has deposited and maintains with the commissioner securities in the sum of not less than ten thousand dollars (\$10,000) executed to the State of Arkansas that are issued by a nonaffiliated corporate entity and are approved by the commissioner; and

(C) Is not otherwise transacting any insurance business in this state that requires compliance with the provisions of the Arkansas Insurance Code.

History. Acts 1891, No. 35, §§ 1, 2, p. 57; C. & M. Dig., §§ 7971, 7972; Pope's Dig., §§ 10364, 10365; A.S.A. 1947, §§ 12-1406, 12-1407; Acts 2001, No. 1274, § 5; 2005, No. 2274, § 2.

A.C.R.C. Notes. Acts 2005, No. 2274, § 5, provided: "This act shall become effective on January 1, 2006."

21-14-111. Unlawful act — Penalty.

CASE NOTES

ANALYSIS

Forged Signature.
Improper Notarization.

Forged Signature.

Issue of fact remained as to whether a notary was liable for witnessing forged signatures pursuant to this section, and therefore whether the surety was liable on its bond issued under § 21-14-101, because, if she recognized the signature, she was permitted to witness it without

watching the signer sign the documents. *Southern Dev. Corp. v. Freightliner of New Hampshire, Inc.*, 2009 Ark. App. 286, 307 S.W.3d 597 (2009).

Improper Notarization.

Under this section and §§ 16-47-205 and 28-68-304(a)(3)(A), the decedent's attorney's secretary signed the certificate of acknowledgement for the November 20 power of attorney before the decedent signed the instrument, and this improper notarization of the acknowledgement was

fatal to the validity of the November 20 power of attorney. *Jones v. Owen*, 2009 Ark. 505, — S.W.3d — (2009).

21-14-112. Denial or revocation of notary public commission.

(a) The Secretary of State may deny the application of any person for appointment or reappointment or revoke the commission of any notary public during the notary public's term of appointment if the notary public:

(1) Submits an application for commission and appointment that contains substantial and material misstatement or omission of fact;

(2) Is convicted of official misconduct under the provisions of § 21-14-111;

(3) Knowingly uses false or misleading advertising in which the notary public represents that the notary public has powers, duties, rights, or privileges that the notary public does not possess by law;

(4) Is found by a court of this state to have engaged in the unauthorized practice of law;

(5) Is found by a court to have improperly notarized documents according to the law; or

(6) Fails to complete the requirements under § 21-14-101.

(b) The Secretary of State may investigate a possible violation of this section upon a signed complaint from any person.

(c) After a notary public receives notice from the Secretary of State that the notary public's commission has been revoked, unless the revocation has been enjoined the notary public shall immediately send or have delivered to the Secretary of State:

(1) The notary public's journal of notarial acts;

(2) All other papers and copies relating to the notary public's notarial acts; and

(3) The notary public's official seal.

(d) A person whose notary public commission has been revoked pursuant to the provisions of this section may subsequently apply for commission and appointment as a notary public after five (5) years have elapsed from the date of the revocation.

History. Acts 1999, No. 1187, § 1; § 5, provided: "This act shall become effective on January 1, 2006."

A.C.R.C. Notes. Acts 2005, No. 2274,

21-14-114. Rules and regulations.

The Secretary of State may promulgate rules and regulations necessary to administer this chapter.

History. Acts 2005, No. 2274, § 4. § 5, provided: "This act shall become effective on January 1, 2006."

A.C.R.C. Notes. Acts 2005, No. 2274,

CHAPTER 15

CRIMINAL BACKGROUND CHECKS

SECTION.

21-15-101. Definitions.

21-15-102. Positions involving direct contact with children and with mentally ill and developmentally disabled persons.

21-15-103. Deadline — Scope of check — Report — Notice — Discharge for persons in designated positions.

21-15-104. Waiver of exclusion or discharge requirement for persons in designated positions.

21-15-106. Rules and regulations — Records.

SECTION.

21-15-107. Identification Bureau and registries — Duties.

21-15-111. Hiring new employees into designated financial or information technology positions.

21-15-112. Incumbent employees in designated financial or information technology positions.

21-15-113. Waiver of exclusion or discharge requirement for persons in designated financial or information technology positions.

21-15-101. Definitions.

As used in this subchapter:

(1) "Applicant" means a person applying for employment with a state agency;

(2) "Central registry check" means a review of the databases of the Child Maltreatment Central Registry, the Adult and Long-Term Care Facility Resident Maltreatment Central Registry, and the Certified Nursing Assistant/Employment Clearance Registry maintained by the Office of Long-Term Care of the Division of Medical Services of the Department of Human Services pursuant to 42 C.F.R. § 483.156 and § 20-10-203;

(3) "Child" means a minor under eighteen (18) years of age;

(4) "Criminal history check" means a criminal history report produced by the Identification Bureau of the Department of Arkansas State Police;

(5) "Designated position" means a position in which a person is employed by a state agency to provide care, supervision, treatment, or any other services to the elderly, to mentally ill or developmentally disabled persons, to persons with mental illnesses, or to children who reside in any state-operated facility or a position in which the applicant or employee will have direct contact with a child or a person who is elderly, mentally ill, or developmentally disabled;

(6) "Designated financial or information technology position" means a position designated by a director of a division or office within the Department of Human Services in which the person placed in the position:

(A) Has the authority or capability via computer access or otherwise to receive payments or to issue, initiate, or approve a contract, grant, warrant, payment, or procurement in any form;

- (B) Approves security access to information systems;
- (C) Authenticates and configures user security access to information systems;
- (D) Acts in the capacity of information technology network, application, or system administrator;
- (E) Manages or directs information technology network, application, or system administrators; or
- (F) Develops, designs, programs, or maintains information technology networks, applications, or systems;
- (7) "Developmentally disabled person" means a person with a disability that is attributable to:
 - (A) Mental retardation, cerebral palsy, spina bifida, Down syndrome, epilepsy, or autism;
 - (B) Dyslexia resulting from a disability associated with mental retardation, cerebral palsy, epilepsy, or autism; or
 - (C) Any other condition found to be closely related to mental retardation because it results in an impairment of general intellectual functioning or adaptive behavior similar to those of mentally retarded persons or requires treatment and services similar to those required for mentally retarded persons;
- (8) "Direct contact" means the ability to interview, question, examine, interact with, talk with, or communicate with a child without being in the physical presence of a person other than the child;
- (9) "Elderly" means persons sixty-five (65) years of age or older;
- (10)(A) "Mentally ill persons" means persons who suffer from a substantial impairment of emotional processes, or of the ability to exercise conscious control of their actions, or of the ability to perceive reality or to reason when the impairment is manifested in instances of extremely abnormal behavior or extremely faulty perceptions.
- (B) "Mentally ill persons" does not include persons whose impairment is solely caused by epilepsy, continuous or noncontinuous periods of intoxication caused by substances such as alcohol or drugs, or dependence upon or addiction to any substance such as alcohol or drugs; and
- (11)(A) "State agency" means any agency, authority, board, bureau, commission, council, department, office, or officer of the state receiving an appropriation by the General Assembly.
- (B) "State agency" does not include municipalities, townships, counties, school districts, and state-supported institutions of higher learning.

History. Acts 1997, No. 1019, § 1; 1999, No. 1409, § 9; 2001, No. 995, § 1; 2005, No. 1422, § 1; 2007, No. 991, § 1; 2011, No. 68, § 4.

Amendments. The 2007 amendment

added "a person who is elderly, mentally ill or developmentally disabled" at the end of (5).

The 2011 amendment inserted "spina bifida, Down syndrome" in (7)(A).

21-15-102. Positions involving direct contact with children and with mentally ill and developmentally disabled persons.

(a)(1)(A) When a person applies for employment with a state agency in a designated position and if the state agency intends to make an offer of employment to the applicant, the applicant shall complete a criminal history check form and a central registry check form obtained from the state agency and shall submit the form to the state agency as part of the application process.

(B) If the state agency intends to make an offer of employment to the applicant, the state agency within five (5) days of the decision shall:

(i)(a) Use the Online Criminal Background Check System to obtain the criminal history or forward the criminal history check form to the Identification Bureau of the Department of Arkansas State Police and request the bureau to review the bureau's database of criminal history.

(b) Within three (3) days of the receipt of a request to review the database, the bureau shall notify the state agency if the database contains any criminal history records on the applicant; and

(ii)(a) Forward the central registry check form to the Child Maltreatment Central Registry and the Adult and Long-Term Care Facility Resident Maltreatment Central Registry for a central registry check.

(b) The state agency shall pay any fee associated with the central registry check on behalf of the applicant.

(c) Within three (3) days of the receipt of a request for a central registry check, the central registry shall notify the state agency if the database contains any information naming the applicant as an offender or perpetrator of child or adult abuse.

(2) If no criminal history or central registry records regarding the applicant are found in the database, then the state agency may make an offer of temporary employment to the applicant while the bureau completes a criminal history check and the state agency determines whether the applicant is disqualified from employment under subsection (f) of this section.

(3)(A) If a criminal history record regarding the applicant is found in the bureau's database, then the applicant is temporarily disqualified from employment until the state agency determines whether the applicant is disqualified from employment under subsection (f) of this section.

(B) If the state agency determines that the applicant is not disqualified, then the state agency may continue to temporarily employ the applicant while the bureau completes a criminal history check.

(4) If an applicant has been named as an offender or perpetrator in a true, substantiated, or founded report from the Child Maltreatment

Central Registry or the Adult and Long-Term Care Facility Resident Maltreatment Central Registry, the applicant shall be immediately disqualified.

(b)(1) Except as provided in subdivision (b)(2) of this section, the bureau shall conduct a state criminal history check and a national criminal history check on an applicant upon receiving a criminal history check request from a state agency.

(2)(A) If the state agency can verify that the applicant has lived continuously in the State of Arkansas for the past five (5) years, the bureau shall conduct only a state criminal history check on the applicant.

(B) If the state agency can verify that the selected applicant currently works for a state agency in a designated position or a designated financial or information technology position and the state agency can provide verification that a criminal history check for that position has been completed in the last five (5) years, the state agency does not need to conduct another criminal history check on the employee until the criminal history check is five (5) years old.

(c)(1) Upon completion of a criminal history check on an applicant, the bureau shall issue a report to the state agency.

(2)(A) The state agency shall determine whether the applicant is disqualified from employment under subsection (f) of this section.

(B) If the state agency determines that an applicant is disqualified from employment, then the state agency shall deny employment to the applicant.

(d) When a national criminal history check is required under this section, the criminal history check shall conform to the applicable federal standards and shall include the taking of fingerprints.

(e) Before making a temporary or permanent offer of employment in a designated position, a state agency shall inform applicants that:

(1) Continued employment is contingent upon the results of a criminal history check and a central registry check; and

(2) The applicant has the right to obtain a copy of his or her:

(A) Criminal history report from the bureau; and

(B) Central registry report from the registries.

(f) Except as provided in subdivision (g)(2) of this section, no person shall be eligible for employment with a state agency in a designated position if that person has pleaded guilty or nolo contendere to, or been found guilty of, any of the following offenses by any court in the State of Arkansas or of any similar offense by a court in another state or of any similar offense by a federal court unless the conviction was vacated or reversed:

(1) Capital murder, as prohibited in § 5-10-101;

(2) Murder in the first degree and second degree, as prohibited in §§ 5-10-102 and 5-10-103;

(3) Manslaughter, as prohibited in § 5-10-104;

(4) Negligent homicide, as prohibited in § 5-10-105;

(5) Kidnapping, as prohibited in § 5-11-102;

- (6) False imprisonment in the first degree, as prohibited in § 5-11-103;
- (7) Permanent detention or restraint, as prohibited in § 5-11-106;
- (8) Robbery, as prohibited in § 5-12-102;
- (9) Aggravated robbery, as prohibited in § 5-12-103;
- (10) Battery in the first degree, as prohibited in § 5-13-201;
- (11) Aggravated assault, as prohibited in § 5-13-204;
- (12) Introduction of controlled substance into body of another person, as prohibited in § 5-13-210;
- (13) Terroristic threatening in the first degree, as prohibited in § 5-13-301;
- (14) Rape, as prohibited in § 5-14-103;
- (15) Sexual indecency with a child, as prohibited in § 5-14-110;
- (16) Sexual assault in the first degree, second degree, third degree, and fourth degree, as prohibited in §§ 5-14-124 — 5-14-127;
- (17) Incest, as prohibited in § 5-26-202;
- (18) Offenses against the family, as prohibited in §§ 5-26-303 — 5-26-306;
- (19) Endangering the welfare of an incompetent person in the first degree, as prohibited in § 5-27-201;
- (20) Endangering the welfare of a minor in the first degree, as prohibited in § 5-27-203;
- (21) Permitting abuse of a child, as prohibited in § 5-27-221(a)(1) and (3);
- (22) Engaging children in sexually explicit conduct for use in visual or print medium, transportation of minors for prohibited sexual conduct, pandering, or possessing visual or print medium depicting sexually explicit conduct involving a child, or the use of a child or consent to the use of a child in a sexual performance by producing, directing, or promoting a sexual performance by a child, as prohibited in §§ 5-27-303 — 5-27-305, 5-27-402, and 5-27-403;
- (23) Adult abuse that constitutes a felony, as prohibited in § 5-28-103;
- (24) Theft of property, as prohibited in § 5-36-103;
- (25) Theft by receiving, as prohibited in § 5-36-106;
- (26) Arson, as prohibited in § 5-38-301;
- (27) Burglary, as prohibited in § 5-39-201;
- (28) Felony violation of the Uniform Controlled Substances Act, §§ 5-64-101 — 5-64-508, as prohibited in the former § 5-64-401 and §§ 5-64-419 — 5-64-442;
- (29) Promotion of prostitution in the first degree, as prohibited in § 5-70-104;
- (30) Stalking, as prohibited in § 5-71-229;
- (31) Computer child pornography, as prohibited in § 5-27-603;
- (32) Computer exploitation of a child in the first degree, as prohibited in § 5-27-605; or
- (33) Criminal attempt, criminal complicity, criminal solicitation, or criminal conspiracy, as prohibited in §§ 5-3-201, 5-3-202, 5-3-301, and 5-3-401, to commit any of the offenses listed in this subsection.

(g)(1) For purposes of this section, an expunged record of a conviction or plea of guilty or nolo contendere to an offense listed in subsection (f) of this section shall not be considered a conviction or a plea of guilty or nolo contendere to the offense unless the offense is also listed in subdivision (g)(2) of this section.

(2) Because of the serious nature of the following offenses and the close relationship between the following offenses and the type of work that is to be performed by the applicant, a conviction of one (1) or more of the following offenses by an applicant shall result in permanent disqualification from employment in a designated position:

(A) Capital murder, as prohibited in § 5-10-101;

(B) Murder in the first degree and murder in the second degree, as prohibited in §§ 5-10-102 and 5-10-103;

(C) Kidnapping, as prohibited in § 5-11-102;

(D) Rape, as prohibited in § 5-14-103;

(E) Sexual assault in the first degree and second degree, as prohibited in §§ 5-14-124 and 5-14-125;

(F) Endangering the welfare of a minor in the first degree and endangering the welfare of a minor in the second degree, as prohibited in §§ 5-27-203 and 5-27-204;

(G) Incest, as prohibited in § 5-26-202;

(H) Arson, as prohibited in § 5-38-301;

(I) Endangering the welfare of an incompetent person in the first degree, as prohibited in § 5-27-201; or

(J) Adult abuse that constitutes a felony, as prohibited in § 5-28-103.

History. Acts 1997, No. 1019, § 2; 1999, No. 1409, § 10; 2001, No. 995, § 2; 2001, No. 1553, § 34; 2003, No. 1087, § 22; 2003, No. 1380, § 1; 2003, No. 1473, § 48; 2005, No. 1422, § 1; 2007, No. 991, § 2; 2011, No. 570, § 126.

A.C.R.C. Notes. Acts 2011, No. 570, § 1, provided: Legislative intent. "The intent of this act is to implement comprehensive measures designed to reduce recidivism, hold offenders accountable, and contain correction costs."

Amendments. The 2007 amendment deleted "forward" following "shall" in (a)(1)(B); substituted "Use the Online Criminal Background Check System to obtain the criminal history or forward

the" for "The" in (a)(1)(B)(i)(a); in (a)(1)(B)(ii)(a), substituted "Forward the" for "The" and deleted "and the Certified Nursing Assistant/Employment Clearance Registry"; in (a)(4), inserted "or" and deleted "or the Certified Nursing Assistant/Employment Clearance Registry"; redesignated former (b)(2) as present (b)(2)(A); deleted "has been employed by a state agency in a designated position within sixty (60) days before the application or" following "applicant" in (b)(2)(A); added (b)(2)(B); and made related changes.

The 2011 amendment, in (f)(28), inserted "the former" and "and §§ 5-64-419 — 5-64-442."

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2003 Arkansas General Assembly, Public Officers and Employees, Background Checks, 26 U. Ark. Little Rock L. Rev. 471, 472, 475.

Survey of Legislation, 2003 Arkansas General Assembly, Criminal Law, Computer Crimes, 26 U. Ark. Little Rock L. Rev. 361.

21-15-103. Deadline — Scope of check — Report — Notice — Discharge for persons in designated positions.

(a)(1) A state agency shall ensure that any incumbent employee in a designated position has a subsequent criminal background check completed within five (5) years of the incumbent employee's initial criminal background check and every five (5) years thereafter.

(2) A state agency shall ensure that any incumbent employee in a designated position has a subsequent central registry check completed within five (5) years of the incumbent employee's initial central registry check and every five (5) years thereafter.

(3) In accordance with subdivisions (a)(1) and (2) of this section, each employee of a state agency in a designated position shall complete a criminal history check form and a central registry check form obtained from the state agency and shall submit the form to the state agency. The state agency shall:

(A)(i) Use the Online Criminal Background Check System to obtain a criminal history check or forward the criminal history check form to the Identification Bureau of the Department of Arkansas State Police.

(ii) The state agency shall pay any fee associated with the criminal history check on behalf of the employee; and

(B)(i) Forward the central registry check to the Child Maltreatment Central Registry and the Adult and Long-Term Care Facility Resident Maltreatment Central Registry for a review of the registry databases.

(ii) The state agency shall pay any fee associated with the central registry checks.

(b)(1) Except as provided in subdivision (b)(2) of this section, the bureau shall conduct a state criminal history check and a national criminal history check on an applicant upon receiving a criminal history check request from a state agency.

(2) If the state agency can verify that the applicant has been employed by a state agency in a designated position within sixty (60) days before the application or has lived continuously in the State of Arkansas for the past five (5) years, the bureau shall conduct only a state criminal history check on the applicant.

(c)(1) Upon completion of a criminal history check on an employee, the bureau shall issue a report to the state agency.

(2)(A) The state agency shall determine whether the employee is disqualified from employment under subsection (g) of this section.

(B) If the state agency determines that an employee is disqualified from employment, then the state agency shall discharge the employee.

(d) When a national criminal history check is required under this section, the criminal history check shall conform to the applicable federal standards and shall include the taking of fingerprints.

(e) If a waiver applicant has been named as an offender or perpetrator in a true, substantiated, or founded report from the Child Maltreat-

ment Central Registry, the Adult and Long-Term Care Facility Resident Maltreatment Central Registry, or the Certified Nursing Assistant/Employment Clearance Registry, the state agency shall discharge the employee.

(f) A state agency shall inform all employees in designated positions that:

(1) Continued employment is contingent upon the results of a criminal history check and a central registry check; and

(2) The employee has the right to obtain a copy of his or her:

(A) Criminal history report from the bureau; and

(B) Central registry report from the registries.

(g) Except as provided in subdivision (h)(1) of this section, a state agency shall discharge from employment in a designated position any person who has pleaded guilty or nolo contendere to, or been found guilty of, any of the following offenses by any court in the State of Arkansas or of any similar offense by a court in another state or of any similar offense by a federal court unless the conviction was vacated or reversed:

(1) Capital murder, as prohibited in § 5-10-101;

(2) Murder in the first degree and second degree, as prohibited in §§ 5-10-102 and 5-10-103;

(3) Manslaughter, as prohibited in § 5-10-104;

(4) Negligent homicide, as prohibited in § 5-10-105;

(5) Kidnapping, as prohibited in § 5-11-102;

(6) False imprisonment in the first degree, as prohibited in § 5-11-103;

(7) Permanent detention or restraint, as prohibited in § 5-11-106;

(8) Robbery, as prohibited in § 5-12-102;

(9) Aggravated robbery, as prohibited in § 5-12-103;

(10) Battery in the first degree, as prohibited in § 5-13-201;

(11) Aggravated assault, as prohibited in § 5-13-204;

(12) Introduction of controlled substance into body of another person, as prohibited in § 5-13-210;

(13) Terroristic threatening in the first degree, as prohibited in § 5-13-301;

(14) Rape, as prohibited in § 5-14-103;

(15) Sexual indecency with a child, as prohibited in § 5-14-110;

(16) Sexual assault in the first degree, second degree, third degree, or fourth degree, as prohibited in §§ 5-14-124 — 5-14-127;

(17) Incest, as prohibited in § 5-26-202;

(18) Offenses against the family, as prohibited in §§ 5-26-303 — 5-26-306;

(19) Endangering the welfare of an incompetent person in the first degree, as prohibited in § 5-27-201;

(20) Endangering the welfare of a minor in the first degree, as prohibited in § 5-27-203;

(21) Permitting abuse of a child, as prohibited in § 5-27-221(a)(1) and (3);

(22) Engaging children in sexually explicit conduct for use in visual or print medium, transportation of minors for prohibited sexual conduct, pandering, or possessing visual or print medium depicting sexually explicit conduct involving a child, or the use of a child or consent to the use of a child in a sexual performance by producing, directing, or promoting a sexual performance by a child, as prohibited in §§ 5-27-303 — 5-27-305, 5-27-402, and 5-27-403;

(23) Adult abuse constituting a felony, as prohibited in § 5-28-103;

(24) Theft of property, as prohibited in § 5-36-103;

(25) Theft by receiving, as prohibited in § 5-36-106;

(26) Arson, as prohibited in § 5-38-301;

(27) Burglary, as prohibited in § 5-39-201;

(28) Felony violation of the Uniform Controlled Substances Act, §§ 5-64-101 — 5-64-508, as prohibited in the former § 5-64-401 and §§ 5-64-419 — 5-64-442;

(29) Promotion of prostitution in the first degree, as prohibited in § 5-70-104;

(30) Stalking, as prohibited in § 5-71-229;

(31) Computer child pornography, as prohibited in § 5-27-603;

(32) Computer exploitation of a child in the first degree, as prohibited in § 5-27-605; or

(33) Criminal attempt, criminal complicity, criminal solicitation, or criminal conspiracy, as prohibited in §§ 5-3-201, 5-3-202, 5-3-301, and 5-3-401, to commit any of the offenses listed in this subsection.

(h)(1) For purposes of this section, an expunged record of a conviction or plea of guilty or nolo contendere to an offense listed in subsection (g) of this section shall not be considered a conviction or plea of guilty or nolo contendere to the offense unless the offense is also listed in subdivision (h)(2) of this section.

(2) Because of the serious nature of the offenses and the close relationship to the type of work that is to be performed, the following offenses shall result in permanent disqualification:

(A) Capital murder, as prohibited in § 5-10-101;

(B) Murder in the first degree and murder in the second degree, as prohibited in §§ 5-10-102 and 5-10-103;

(C) Kidnapping, as prohibited in § 5-11-102;

(D) Rape, as prohibited in § 5-14-103;

(E) Sexual assault in the first degree and second degree, as prohibited in §§ 5-14-124 and 5-14-125;

(F) Endangering the welfare of a minor in the first degree and endangering the welfare of a minor in the second degree, as prohibited in §§ 5-27-203 and 5-27-204;

(G) Incest, as prohibited in § 5-26-202;

(H) Arson, as prohibited in § 5-38-301;

(I) Endangering the welfare of an incompetent person in the first degree, as prohibited in § 5-27-201; and

(J) Adult abuse that constitutes a felony, as prohibited in § 5-28-103.

History. Acts 1997, No. 1019, § 3; 1999, No. 1409, §§ 11-13; 2001, No. 995, § 3; 2003, No. 482, § 1; 2003, No. 1087, § 23; 2003, No. 1379, § 1; 2003, No. 1473, § 49; 2005, No. 1422, § 1; 2005, No. 1923, § 8; 2007, No. 827, § 180; 2007, No. 991, § 3; 2011, No. 570, § 127.

A.C.R.C. Notes. Acts 2011, No. 570, § 1, provided: "Legislative intent. The intent of this act is to implement comprehensive measures designed to reduce recidivism, hold offenders accountable, and contain correction costs."

Amendments. The 2007 amendment by No. 991 deleted former (a)(1)(A); redesignated former (a)(1)(B) as present (a)(1);

deleted former (a)(2)(A); redesignated former (a)(2)(B) as present (a)(2); substituted "check" for "checks" in (a)(2); deleted "forward" following "shall" in (a)(3); substituted "Use the Online Criminal Background Check System to obtain a criminal history check or forward the" for "The" in (a)(3)(A)(i); and in (a)(3)(B)(i), substituted "Forward the" for "The" and deleted "and the Certified Nurses Assistants Central Registry" following the second occurrence of "Registry"; and made related changes.

The 2011 amendment, in (g)(28), inserted "the former" and "and §§ 5-64-419 — 5-64-442."

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2003 Arkansas General Assembly, Public Officers and Employees, Discharge of Convicted Employee, 26 U. Ark. Little Rock L. Rev. 473.

Survey of Legislation, 2003 Arkansas General Assembly, Public Officers and Employees, Background Checks, 26 U. Ark. Little Rock L. Rev. 471, 472, 475.

21-15-104. Waiver of exclusion or discharge requirement for persons in designated positions.

(a)(1) The provisions of §§ 21-15-102(a)(4), 21-15-102(f), 21-15-103(e), 21-15-103(g), and 21-15-110(b) may be waived by the director of a state agency upon the request of:

- (A) A supervisor or other managerial employee in the state agency;
- (B) An affected applicant; or

(C) An incumbent employee in a designated position who is subject to discharge.

(2) A request for a waiver must be made within five (5) days of receipt of the criminal background check or central registry check.

(3) If the crime is a misdemeanor and more than five (5) years have elapsed since the conviction, the state agency is not required to discharge an incumbent employee if a request for a waiver is timely made and if the waiver is ultimately granted.

(4) If the waiver is not granted and the request was for an incumbent employee who was not immediately discharged, the state agency shall immediately discharge the incumbent employee.

(5) If the waiver is not granted and the request was for an applicant, the state agency is prohibited from hiring the applicant.

(6) If an incumbent employee was immediately discharged but was subsequently granted a waiver, the incumbent employee shall be immediately reinstated but is not entitled to retroactive relief, including back pay.

(b)(1) A waiver may be granted upon a preponderance of the evidence that the applicant or employee is rehabilitated such that the public interest is not threatened by the applicant's or employee's employment.

(2) Evidence of rehabilitation may include:

- (A) The age at which the crime or act was committed;
- (B) The circumstances surrounding the crime or act;
- (C) The length of time since the crime or act;
- (D) Subsequent work history;
- (E) Employment references;
- (F) Character references; and

(G) Other evidence demonstrating that the applicant or employee does not pose a threat to the health or safety of children or other clients of the state agency.

(c) Because of the serious nature of the offenses and the close relationship to the type of work that is to be performed, the following offenses may not be waived by the director of a state agency:

- (1) Capital murder, § 5-10-101;
- (2) Murder in the first degree, § 5-10-102;
- (3) Murder in the second degree, § 5-10-103;
- (4) Kidnapping, § 5-11-102;
- (5) Rape, § 5-14-103;
- (6) Sexual assault in the first degree, § 5-14-124;
- (7) Sexual assault in the second degree, § 5-14-125;
- (8) Sexual indecency with a child, § 5-14-110;
- (9) Endangering the welfare of an incompetent person in the first degree, § 5-27-201;
- (10) Endangering the welfare of a minor in the first degree, § 5-27-205;
- (11) Engaging children in sexually explicit conduct for use in visual or print medium, § 5-27-303;
- (12) Pandering or possessing visual or print medium depicting sexually explicit conduct involving a child, § 5-27-304;
- (13) Transportation of minors for prohibited sexual conduct, § 5-27-305;
- (14) Employing or consenting to the use of a child in a sexual performance, § 5-27-402;
- (15) Producing, directing, or promoting a sexual performance by a child, § 5-27-403;
- (16) Adult abuse that constitutes a felony, § 5-28-103;
- (17) Arson, § 5-38-301;
- (18) Computer child pornography, § 5-27-603; and
- (19) Computer exploitation of a child in the first degree, § 5-27-605.

History. Acts 1997, No. 1019, § 4; 1999, No. 1409, § 14; 2001, No. 995, § 4; 2003, No. 1087, § 24; 2003, No. 1377, § 1; 2005, No. 1422, § 1; 2007, No. 827, §§ 181, 182; 2007, No. 991, § 4.

Amendments. The 2007 amendment by No. 827, in (a), substituted "An incumbent employee" for "The person" in (1)(C), "A request" for "Application" in (2), "re-

quest was for" for "waiver applicant is" in (4) and (5), inserted "incumbent" in (6), and made stylistic changes; and rewrote (c).

The 2007 amendment by No. 991 inserted "or central registry check" in (a)(2) and substituted "elapsed" for "lapsed" in (a)(3).

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Background Checks, 26 U. Ark. Little Rock L. Rev. 471, 472, 475.
Legislation, 2003 Arkansas General Assembly, Public Officers and Employees,

21-15-106. Rules and regulations — Records.

(a) All state agencies with a designated position or a designated financial or information technology position shall adopt the necessary rules and regulations to fully implement the provisions of this subchapter.

(b) Each state agency shall maintain on file, subject to inspection by the Arkansas Crime Information Center, the Identification Bureau of the Department of Arkansas State Police, the Child Maltreatment Central Registry, and the Adult and Long-Term Care Facility Resident Maltreatment Central Registry evidence that criminal history and central registry checks required by this subchapter have been initiated on all applicants and employees.

History. Acts 1997, No. 1019, § 6; 1999, No. 1409, § 15; 2001, No. 995, § 6; 2005, No. 1422, § 2; 2007, No. 991, § 5.

Amendments. The 2007 amendment, in (b), deleted “or” following “Police,” in-

serted “and,” and deleted “or the Certified Nursing Assistant/Employment Clearance Registry” following the second occurrence of “Registry.”

21-15-107. Identification Bureau and registries — Duties.

(a)(1) After receipt of a request for a criminal history check, the Identification Bureau of the Department of Arkansas State Police shall make reasonable efforts to respond to requests for state criminal history checks within twenty (20) calendar days and to respond to requests for national criminal history checks within ten (10) calendar days after the receipt of a national criminal history check from the Federal Bureau of Investigation.

(2) After receipt of a request for a central registry check, a registry shall make reasonable efforts to respond to requests within twenty (20) calendar days.

(b)(1) Upon completion of a criminal history check, the Identification Bureau of the Department of Arkansas State Police shall forward all information obtained concerning the applicant or employee to the Arkansas Crime Information Center.

(2) Upon completion of a central registry check, the registry shall forward all information obtained concerning the applicant or employee to the requesting state agency.

(c) The Identification Bureau of the Department of Arkansas State Police shall maintain a database of the results of criminal history checks on each applicant for employment with and each employee of a state agency in a designated position.

(d)(1) The Identification Bureau of the Department of Arkansas State Police shall develop a form to be used for criminal history checks

conducted under this subchapter. The form shall require the notarized signature of the person who is the subject of the check.

(2) The Child Maltreatment Central Registry and the Adult and Long-Term Care Facility Resident Maltreatment Central Registry shall work together to develop a form to be used for central registry checks conducted under this subchapter. The form shall require the notarized signature of the person who is the subject of the check.

History. Acts 1997, No. 1019, § 7; in (d)(2), deleted “and the Certified Nursing Assistant/Employment Clearance Registry” following the second occurrence of “Registry” and made related changes.

2001, No. 995, § 7; 2003, No. 482, § 2; 2005, No. 1422, § 2; 2007, No. 991, § 6.

Amendments. The 2007 amendment,

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Background Checks, 26 U. Ark. Little Rock L. Rev. 471, 472, 475.
Legislation, 2003 Arkansas General Assembly, Public Officers and Employees,

21-15-111. Hiring new employees into designated financial or information technology positions.

(a)(1)(A) When a person applies for employment with a state agency in a designated financial or information technology position and if the state agency intends to make an offer of employment to the applicant, the applicant shall complete a criminal history check form and shall submit the form to the state agency as part of the application process.

(B) Within five (5) days of the state agency’s decision to make an offer of employment to the applicant, the state agency shall use the Online Criminal Background Check System to obtain the criminal history or forward the criminal history check form to the Identification Bureau of the Department of Arkansas State Police and request the bureau to review the database of criminal history.

(C) Within three (3) days of the receipt of a request to review the database, the bureau shall notify the state agency if the database contains any criminal history record on the applicant.

(2) If no criminal history record regarding the applicant is found in the database, then the state agency may make an offer of temporary employment to the applicant while the bureau completes a criminal history check and the state agency determines whether the applicant is disqualified from employment under subsection (f) of this section.

(3)(A) If a criminal history record regarding the applicant is found in the database, then the applicant is temporarily disqualified from employment until the state agency determines whether the applicant is disqualified from employment under subsection (f) of this section.

(B) If the state agency determines that the applicant is not disqualified, then the state agency may continue to temporarily employ the applicant while the bureau completes a criminal history check.

(b)(1) Except as provided in subdivision (b)(2) of this section, the bureau shall conduct a state criminal history check and a national

criminal history check on an applicant upon receiving a criminal history check request from a state agency.

(2)(A) If the state agency can verify that the applicant has been employed by a state agency in a designated financial or information technology position within sixty (60) days before the application or has lived continuously in the State of Arkansas for the past five (5) years, the bureau shall conduct only a state criminal history check on the applicant.

(B) If the state agency can verify that the selected applicant currently works for a state agency in a designated position or a designated financial or information technology position and the state agency can provide verification that a criminal history check for that position has been completed in the last five (5) years, the state agency does not need to conduct another criminal history check on the employee until the criminal history check is five (5) years old.

(c)(1) Upon completion of a criminal history check on an applicant, the bureau shall issue a report to the state agency.

(2)(A) The state agency shall determine whether the applicant is disqualified from employment under subsection (f) of this section.

(B) If the state agency determines that an applicant is disqualified from employment, then the state agency shall deny employment to the applicant.

(d) If a national criminal history check is required under this section, the criminal history check shall conform to the applicable federal standards and shall include the taking of fingerprints.

(e) Before making a temporary or permanent offer of employment, a state agency shall inform an applicant that:

(1) Continued employment is contingent upon the results of a criminal history check; and

(2) The applicant has the right to obtain a copy of his or her criminal history report from the bureau.

(f) An expunged record of a conviction or plea of guilty or nolo contendere to an offense listed in this subsection shall not be considered a conviction or plea of guilty or nolo contendere to the offense. No person shall be eligible for employment with a state agency in a designated financial or information technology position if that person has pleaded guilty or nolo contendere to, or has been found guilty of, any of the following offenses by any court in the State of Arkansas or of any similar offense by a court in another state or of any similar offense by a federal court unless the conviction was vacated, or reversed:

(1) Robbery, as prohibited in § 5-12-102;

(2) Aggravated robbery, as prohibited in § 5-12-103;

(3) Soliciting money or property from incompetents, as prohibited in § 5-27-229;

(4) Theft of property, as prohibited in § 5-36-103;

(5) Theft by receiving, as prohibited in § 5-36-106;

(6) Theft of property lost, mislaid, or delivered by mistake, as prohibited in § 5-36-105;

- (7) Theft of leased, rented, or entrusted personal property, as prohibited in § 5-36-115;
- (8) Shoplifting, as prohibited in § 5-36-116;
- (9) Embezzlement by officer or employee of certain institutions, as prohibited in § 5-36-118;
- (10) Theft of public benefits, as prohibited in § 5-36-202;
- (11) Theft of wireless service, as prohibited in § 5-36-303;
- (12) Facilitating theft of wireless service by manufacture, distribution, or possession of devices for theft of wireless services, as prohibited in § 5-36-304;
- (13) Any offense involving theft detection devices, as prohibited in §§ 5-36-401 — 5-36-405;
- (14) Forgery, as prohibited in § 5-37-201;
- (15) Falsifying business records, as prohibited in § 5-37-202;
- (16) Defrauding secured creditors, as prohibited in § 5-37-203;
- (17) Fraud in insolvency, as prohibited in § 5-37-204;
- (18) Issuing a false financial statement, as prohibited in § 5-37-205;
- (19) Receiving deposits in a failing financial institution, as prohibited in § 5-37-206;
- (20) Fraudulent use of a credit card or debit card, as prohibited in § 5-37-207;
- (21) Criminal impersonation, as prohibited in § 5-37-208;
- (22) Criminal possession of a forgery device, as prohibited in § 5-37-209;
- (23) Obtaining signature by deception, as prohibited in § 5-37-210;
- (24) Defrauding judgment creditors, as prohibited in § 5-37-211;
- (25) Unlawfully using slugs, as prohibited in § 5-37-212;
- (26) Criminal simulation, as prohibited in § 5-37-213;
- (27) Use of false transcript, diploma, or grade report from postsecondary educational institution, as prohibited in § 5-37-225;
- (28) Financial identity fraud, as prohibited in § 5-37-227;
- (29) Any offense violating The Arkansas Hot Check Law, as prohibited in §§ 5-37-301 — 5-37-307;
- (30) Theft of communication services, as prohibited in § 5-37-402;
- (31) Criminal mischief in the first degree, as prohibited in § 5-38-203;
- (32) Residential or commercial burglary, as prohibited in § 5-39-201;
- (33) Breaking or entering, as prohibited in § 5-39-202;
- (34) Computer fraud, as prohibited in § 5-41-103;
- (35) Computer trespass, as prohibited in § 5-41-104;
- (36) Any offense involving computer crime, as prohibited in §§ 5-41-201 — 5-41-206;
- (37) Criminal use of property or laundering criminal proceeds, as prohibited in § 5-42-204;
- (38) Any offense involving corruption in public office, as prohibited in §§ 5-52-101 — 5-52-108;
- (39) Tampering with a public record, as prohibited in § 5-54-121;
- (40) Criminal acts constituting Medicaid fraud, as prohibited in § 5-55-111;

(41) Any offense involving illegal food coupons, as prohibited in §§ 5-55-201 — 5-55-205;

(42) Engaging in a continuing criminal gang, organization, or enterprise, as prohibited in § 5-74-104; or

(43) Criminal attempt, criminal complicity, criminal solicitation, or criminal conspiracy, as prohibited in §§ 5-3-201, 5-3-202, 5-3-301, and 5-3-401, to commit any of the offenses listed in this subsection.

History. Acts 2005, No. 1422, § 3; 2007, No. 991, § 7.

Amendments. The 2007 amendment inserted “use the Online Criminal Back-

ground Check System to obtain the criminal history or” in (a)(1)(B); redesignated former (b)(2) as present (b)(2)(A); and added (b)(2)(B).

21-15-112. Incumbent employees in designated financial or information technology positions.

(a)(1) State agencies shall ensure that all employees in designated financial or information technology positions apply for criminal history checks by December 1, 2005.

(2) An incumbent employee in a designated financial or information technology position shall have a subsequent criminal background check within five (5) years of the initial criminal background check and every five (5) years thereafter.

(3)(A) In accordance with subdivisions (a)(1) and (2) of this section, each employee of a state agency in a designated financial or information technology position shall complete a criminal history check form and shall submit the form to the state agency.

(B) The state agency shall:

(i) Use the Online Criminal Background Check System to obtain the criminal history or forward the criminal history check form to the Identification Bureau of the Department of Arkansas State Police; and

(ii) Pay any fee associated with the criminal history check on behalf of the employee.

(b)(1) Except as provided in subdivision (b)(2) of this section, the bureau shall conduct a state criminal history check and a national criminal history check on an employee upon receiving a criminal history check request from a state agency.

(2) If the state agency can verify that the employee has been employed by a state agency in a designated financial or information technology position within sixty (60) days before applying for the criminal background check or has lived continuously in the State of Arkansas for the previous five (5) years, the bureau shall conduct only a state criminal history check on the applicant.

(c)(1) Upon completion of a criminal history check on an employee, the bureau shall issue a report to the state agency.

(2)(A) The state agency shall determine whether the employee is disqualified from employment under subsection (f) of this section.

(B) If the state agency determines that an employee is disqualified from employment, then the state agency shall discharge the employee.

(d) If a national criminal history check is required under this section, the criminal history check shall conform to the applicable federal standards and shall include the taking of fingerprints.

(e) A state agency shall inform all employees in designated financial or information technology positions that:

(1) Continued employment is contingent upon the results of a criminal history check; and

(2) The employee has the right to obtain a copy of his or her criminal history report from the bureau.

(f) An expunged record of a conviction or plea of guilty or nolo contendere to an offense listed in this subsection shall not be considered a conviction or plea of guilty or nolo contendere to the offense. A state agency shall discharge from employment an employee in a designated financial or information technology position who has pleaded guilty or nolo contendere to, or has been found guilty of, any of the following offenses by any court in the State of Arkansas or of any similar offense by a court in another state or of any similar offense by a federal court unless the conviction was vacated or reversed:

(1) Robbery, as prohibited in § 5-12-102;

(2) Aggravated robbery, as prohibited in § 5-12-103;

(3) Soliciting money or property from incompetents, as prohibited in § 5-27-229;

(4) Theft of property, as prohibited in § 5-36-103;

(5) Theft by receiving, as prohibited in § 5-36-106;

(6) Theft of property lost, mislaid, or delivered by mistake, as prohibited in § 5-36-105;

(7) Theft of leased, rented, or entrusted personal property, as prohibited in § 5-36-115;

(8) Shoplifting, as prohibited in § 5-36-116;

(9) Embezzlement by officer or employee of certain institutions, as prohibited in § 5-36-118;

(10) Theft of public benefits, as prohibited in § 5-36-202;

(11) Theft of wireless service, as prohibited in § 5-36-303;

(12) Facilitating theft of wireless service by manufacture, distribution, or possession of devices for theft of wireless services, as prohibited in § 5-36-304;

(13) Any offense involving theft detection devices, as prohibited in §§ 5-36-401 — 5-36-405;

(14) Forgery, as prohibited in § 5-37-201;

(15) Falsifying business records, as prohibited in § 5-37-202;

(16) Defrauding secured creditors, as prohibited in § 5-37-203;

(17) Fraud in insolvency, as prohibited in § 5-37-204;

(18) Issuing a false financial statement, as prohibited in § 5-37-205;

(19) Receiving deposits in a failing financial institution, as prohibited in § 5-37-206;

- (20) Fraudulent use of a credit card or debit card, as prohibited in § 5-37-207;
- (21) Criminal impersonation, as prohibited in § 5-37-208;
- (22) Criminal possession of a forgery device, as prohibited in § 5-37-209;
- (23) Obtaining signature by deception, as prohibited in § 5-37-210;
- (24) Defrauding judgment creditors, as prohibited in § 5-37-211;
- (25) Unlawfully using slugs, as prohibited in § 5-37-212;
- (26) Criminal simulation, as prohibited in § 5-37-213;
- (27) Use of false transcript, diploma, or grade report from postsecondary educational institution, as prohibited in § 5-37-225;
- (28) Financial identity fraud, as prohibited in § 5-37-227;
- (29) Any offense violating The Arkansas Hot Check Law, as prohibited in §§ 5-37-301 — 5-37-307;
- (30) Theft of communication services, as prohibited in § 5-37-402;
- (31) Criminal mischief in the first degree, as prohibited in § 5-38-203;
- (32) Residential or commercial burglary, as prohibited in § 5-39-201;
- (33) Breaking or entering, as prohibited in § 5-39-202;
- (34) Computer fraud, as prohibited in § 5-41-103;
- (35) Computer trespass, as prohibited in § 5-41-104;
- (36) Any offense involving computer crime, as prohibited in §§ 5-41-201 — 5-41-206;
- (37) Criminal use of property or laundering criminal proceeds, as prohibited in § 5-42-204;
- (38) Any offense involving corruption in public office, as prohibited in §§ 5-52-101 — 5-52-108;
- (39) Tampering with a public record, as prohibited in § 5-54-121;
- (40) Criminal acts constituting Medicaid fraud, as prohibited in § 5-55-111;
- (41) Any offense involving illegal food coupons, as prohibited in §§ 5-55-201 — 5-55-205;
- (42) Engaging in a continuing criminal gang, organization, or enterprise, as prohibited in § 5-74-104; or
- (43) Criminal attempt, criminal complicity, criminal solicitation, or criminal conspiracy, as prohibited in §§ 5-3-201, 5-3-202, 5-3-301, and 5-3-401, to commit any of the offenses listed in this subsection.

History. Acts 2005, No. 1422, § 3; 2007, No. 991, § 8; 2009, No. 252, § 5.

Amendments. The 2007 amendment substituted “Use the Online Criminal Background Check System to obtain the

criminal history or forward” for “Forward” in (a)(3)(B)(i); and made stylistic changes.

The 2009 amendment inserted “criminal history check form to the” in (a)(3)(B)(i).

21-15-113. Waiver of exclusion or discharge requirement for persons in designated financial or information technology positions.

(a)(1) The provisions of §§ 21-15-111 and 21-15-112 prohibiting the hiring of a person or requiring the discharge of a person in a designated financial or information technology position may be waived by the director of a state agency upon the request of:

- (A) A supervisor or other managerial employee in the state agency;
- (B) An affected applicant; or
- (C) An incumbent employee in the designated financial or information technology position who is subject to discharge.

(2) A request for a waiver must be made within five (5) days of the receipt of the criminal background check.

(3) If the crime is a misdemeanor and more than five (5) years have lapsed since the conviction, the state agency is not required to discharge an incumbent employee if a request for a waiver is timely made and if the waiver is ultimately granted.

(4) If the waiver is not granted and the waiver request was for an incumbent employee who was not immediately discharged, the state agency shall immediately discharge the incumbent employee.

(5) If the waiver is not granted and the waiver request was for an applicant, the state agency is prohibited from hiring the applicant in a designated financial or information technology position.

(6) If an incumbent employee was immediately discharged but was subsequently granted a waiver, the incumbent employee shall be immediately reinstated but is not entitled to retroactive relief, including back pay.

(b)(1) A waiver may be granted upon a preponderance of the evidence that the applicant or employee is rehabilitated such that the public interest is not threatened by the applicant's or employee's employment.

(2) Evidence of rehabilitation may include:

- (A) The age at which the crime or act was committed;
- (B) The circumstances surrounding the crime or act;
- (C) The length of time since the crime or act;
- (D) Subsequent work history;
- (E) Employment references;
- (F) Character references; and

(G) Other evidence demonstrating the rehabilitation of the applicant or employee.

History. Acts 2005, No. 1422, § 3; Acts 2007, No. 827, § 183.

Amendments. The 2007 amendment, in (a), substituted "An incumbent employee" for "The person" in (1)(C), "A re-

quest" for "Application" in (2), "request was for" for "applicant is" in (4) and (5), inserted "incumbent" in (4) and (6), and made stylistic changes.

TITLE 22

PUBLIC PROPERTY

CHAPTER.

2. ARKANSAS BUILDING AUTHORITY.
3. PUBLIC BUILDINGS AND OTHER FACILITIES.
4. PARKS AND RECREATION AREAS.
5. STATE LANDS GENERALLY.
6. SALE OR OTHER DISPOSITION OF STATE LANDS.
8. MOTOR VEHICLES.
9. PUBLIC WORKS.

CHAPTER 1

GENERAL PROVISIONS

SUBCHAPTER 2 — ADVERSE POSSESSION

22-1-204. Realty owned by cities, towns, school districts, counties, or state.

CASE NOTES

In General.

Order that quieted title in favor of land-owners was reversed as the plat and the bill of assurances revealed that the parcel was an easement that had been dedicated

to the city, and no person could acquire adverse possession of city property. City of Cabot v. Brians, 93 Ark. App. 77, 216 S.W.3d 627 (2005).

22-1-206. Property of levee districts.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2003 Arkansas General Assembly, Property Law, Adverse Possession, 26 U. Ark. Little Rock L. Rev. 477.

CHAPTER 2

ARKANSAS BUILDING AUTHORITY

SECTION.

- 22-2-104. Creation.
22-2-107. Creation of sections.

SECTION.

- 22-2-108. Powers and duties generally.
22-2-119. [Repealed.]

22-2-104. Creation.

There is created a public agency of the State of Arkansas to be known as the Arkansas Building Authority. The authority shall carry out the duties and responsibilities set out in § 22-2-108 under the policies,

guidelines, standards, and procedures established by the Arkansas Building Authority Council as created by § 22-2-106.

History. Acts 1975, No. 716, § 3; A.S.A. 1947, § 5-1020.

Publisher's Notes. This section is being set out to correct an agency name.

22-2-107. Creation of sections.

(a) There are created within the Arkansas Building Authority the following sections which shall have the duties and responsibilities designated by the Director of the Arkansas Building Authority with the approval of the Arkansas Building Authority Council and which may include, in relation to other provisions of this chapter, the duties and responsibilities respectively designated in this section:

(1) **CONSTRUCTION SECTION.** The Construction Section shall:

(A) Supervise the bidding and awarding of contracts for new construction and renovations for or by state agencies' capital improvements;

(B) Establish and maintain complete construction files on all jobs, including plans and specifications for alterations, renovations, and repairs of all capital improvements;

(C) Approve all proposed contracts, change orders, and final payments requests;

(D) Ensure that on-site observation of all construction projects, alterations, and repairs is accomplished on a regular basis and maintain records of those observations;

(E) Obtain and maintain construction inspection and observation reports from architects or engineers or their consultants from state agencies and institutions for all capital improvement construction projects;

(F)(i) Conduct visits with the design professional to determine the responsibility and performance required by the contract documents.

(ii) On-site observations by design professionals shall concur with the contractor's payment request and shall be submitted in written form with the pay request.

(iii) The inspection and observation reports shall be as adopted by the council.

(iv) State agencies shall engage the services of licensed architects or engineers for all projects covered by the Arkansas Architectural Act, § 17-15-101 et seq., and the Arkansas Engineering Act, § 17-30-101 et seq.; and

(G) Ensure that the construction of all projects complies with the contract documents;

(2) **BUILDING OPERATIONS SECTION.** The Building Operations Section shall:

(A) Operate, maintain, and manage public buildings as required by the provisions of this chapter or otherwise by law;

(B) Provide for maintenance and operation, including janitorial services for any buildings, structures, or grounds which are owned,

leased, or managed by the authority as may be required by the provisions of this chapter; and

(C) Develop and, upon adoption by the council, enforce procedures, standards, and criteria designed to standardize the level of maintenance on all public buildings and other capital improvements;

(3) DESIGN REVIEW SECTION. The Design Review Section shall:

(A) Establish procedures approved by the council for the selection of engineering, environmental, architectural, and building design consultants' services by state agencies and by the authority. The procedures shall ensure an equitable opportunity for all persons and firms;

(B) Encourage, within the rules and regulations of the state, the timely and expedient commitment and expenditure of appropriations for capital improvements;

(C) Establish standard fee schedules approved by the council for design professional consultant services for capital improvements;

(D) Develop and upon adoption by the council establish minimum design standards and criteria, which shall be made available to all design professionals in the state;

(E) Utilize, require, or undertake studies concerning the needs for and costs of proposed capital improvements;

(F) Review and approve, consistent with the provisions of this chapter, contracts for design professional consultant services, preliminary plans, cost estimates, building programs, feasibility studies, and construction bid documents for capital improvements and mediate architectural and engineering design and construction-related problems;

(G) Assist in analyzing architectural and engineering design and construction problems at state-owned facilities; and

(H) Ensure that state agencies shall engage the services of licensed architects and licensed engineers for capital improvement projects which are not exempted by the requirements of:

(i) The Arkansas Architectural Act, § 17-15-101 et seq.;

(ii) § 17-30-101 et seq.; and

(iii) § 22-9-101 et seq.

(I) The director shall employ within the Design Review Section of the authority a State Architect and a State Engineer who shall have sufficient private practice experience within his or her respective field as well as be registered and licensed within the state;

(4) REAL ESTATE SERVICES SECTION. The Real Estate Services Section shall:

(A) Develop and enforce minimum leasing, sale, and purchase of property standards and criteria for consideration and adoption by the council;

(B) Design standard lease forms to be approved by the council for use by state agencies as provided in this chapter;

(C) Assist state agencies and the council in determining and evaluating rental space needs and the allocation of space for state agencies;

(D) Conduct surveys to determine available rental space that meets minimum leasing standards and criteria and that may be available for use by state agencies;

(E) Otherwise carry out and administer those duties and responsibilities delegated to the section by the director and assist state agencies and the council to ensure that rental space acquired and utilized by state agencies is acquired and utilized in a manner consistent with the intent of this chapter so that no state agency shall lease space that is not absolutely essential to the efficient performance of its duties and responsibilities; and

(F) Carry out and administer those duties and responsibilities involving the purchase or sale of property by state agencies that are under the jurisdiction of the authority so as to ensure that the property is sold or purchased in a manner consistent with Arkansas laws and regulations.

(b) The director may transfer the various duties and functions among the various sections of the authority and effect any other organizational or administrative changes that may be necessary to bring about the efficient and effective implementation of this chapter.

History. Acts 1975, No. 716, § 5; A.S.A. 1947, § 5-1022; Acts 1987, No. 815, §§ 1, 2; 1995, No. 983, § 1; 1999, No. 494, § 1; 2001, No. 542, § 1; 2003, No. 364, §§ 9, 10; 2003, No. 827, §§ 1, 2; 2007, No. 186, § 8; 2009, No. 193, § 7.

Amendments. The 2007 amendment inserted "and observation" in (a)(1)(E) and

(a)(1)(F)(iii); substituted "rule" for "regulation" in (a)(1)(H)(i); and substituted "capital improvement projects" for "all appropriate capital improvement projects contracted" in (a)(3)(H).

The 2009 amendment deleted (a)(1)(H), and made related changes.

22-2-108. Powers and duties generally.

As may be provided, allowed, or limited by the provisions of this chapter, the Arkansas Building Authority Council is authorized and empowered to establish policies, guidelines, standards, and procedures which shall guide and govern the Arkansas Building Authority with regard to the following responsibilities, duties, powers, and activities:

(1) To investigate and obtain information concerning the various boards, commissions, authorities, agencies, departments, and offices of the state, which are the "state agencies", in relation to:

(A) Where they are housed;

(B) Their present and projected needs for space and facilities;

(C) The rental being paid and the rental that state agencies could reasonably pay for space and facilities in public and private buildings; and

(D) The public building space and facilities that can be feasibly financed from appropriated funds available to the authority;

(2)(A) To construct and equip buildings or to acquire by gift or purchase existing buildings and the sites upon which they are situated for use as public buildings.

(B) However, before the authority may construct and equip buildings or acquire by purchase existing buildings and the sites upon which they are situated for use as public buildings, requests for the construction and equipping of those buildings or the acquisition of those existing buildings shall have been first submitted to the General Assembly or to the Legislative Council when the General Assembly is not in session, and the General Assembly shall have reviewed and appropriated the funds therefor or specifically approved the method of funding their construction, equipping, or acquisition thereof;

(3)(A) To provide for the operation and management of the public buildings so constructed or acquired and arrange for the housing of state agencies as space and facilities permit and to rent and lease space and facilities upon such terms and conditions and for such rentals as the authority may determine.

(B) Should there be any surplus space in a public building above the requirements of the state agencies that can be feasibly housed in the building, then the authority may lease or rent the surplus space to individuals and organizations other than state agencies until it is needed by state agencies;

(4) To use the lands acquired by the Arkansas Revenue Department Building Commission which were transferred to the authority under Acts 1975, No. 716, § 6, as sites for public buildings and acquire additional sites as provided in § 22-2-109;

(5) To wreck, remove, and dispose of or salvage buildings or other improvements as necessary for the construction and equipping of public buildings or for future use of an unspecified project;

(6) To purchase, lease, or rent and receive devises, bequests, or donations of and sell or otherwise dispose of any property, real, personal, or mixed, on its own behalf and without the approval of any other board, commission, agency, department, or officer, and the council may convert into money any property bequeathed or donated to it or not needed or which cannot be used in the form received;

(7)(A) To execute contracts necessary to accomplish the purposes of this chapter.

(B) However, no contract shall be entered into for the purchase of any real property unless the authority shall have first submitted for review to the General Assembly or to the Legislative Council when the General Assembly is not in session a request to purchase the property, and the General Assembly shall have provided the funds for or shall have approved the method of funding the purchase;

(8) To apply for, receive, accept, and use any moneys and properties from:

(A) The United States or any state, or any department or agency thereof;

(B) Any public or private corporation of any nature; and

(C) Any individual or group;

(9)(A) To establish, promulgate, and enforce minimum design and construction standards and criteria for all capital improvements

undertaken by any state agency, including without limitation procedures regarding flood plain management and the bidding and awarding of capital improvements regarding projects under the jurisdiction of the authority.

(B) However, the authority shall not engage in the production of architectural plans and specifications, with the exception that the architects and engineers employed by the authority may provide and make available technical assistance to the authority's sections listed in § 22-2-107 and other agencies regarding capital improvements involving roofing projects, repairs, alterations, or renovations;

(10) To establish and enforce minimum standards and criteria for the management, maintenance, and operation of all public buildings and capital improvements;

(11) To establish and enforce minimum standards and criteria for the leasing and renting of space for and by state agencies;

(12) To provide for the management, maintenance, and operation of those public buildings as may be required by this chapter or otherwise by law to be managed, maintained, or operated by the authority and provide technical advice on management, maintenance, and operation to agencies with existing capital improvements;

(13) To provide monthly reports to the Legislative Council and to the Governor, or as otherwise may be requested by the Legislative Council, the Governor, or the General Assembly;

(14) To obtain and keep on file copies of architectural and engineering plans and construction documents for all public buildings and capital improvements, including those plans and documents for all existing public buildings and capital improvements for which plans and documents exist;

(15)(A)(i) To assume all duties and responsibilities for minor alterations and repairs of existing public buildings and capital improvements previously vested within the Office of State Procurement by Acts 1955, No. 313 [repealed], as amended by Acts 1959, No. 29 [repealed], as implemented and developed by the Construction Section.

(ii) These duties and responsibilities of the office are transferred to the authority.

(B) It is the intent of this chapter that the above-mentioned and all other duties and responsibilities of the Construction Section shall be transferred to the authority, including approval authority for real property purchases by any agency, board, commission, or department; and

(16) To promulgate reasonable rules, regulations, and procedures as may be required to carry out its duties, responsibilities, powers, and authorities under this chapter which are consistent with the purposes and intent of this chapter.

History. Acts 1975, No. 716, § 3; 1983, 1999, No. 1173, § 2; 2003, No. 364, § 11; No. 734, § 1; A.S.A. 1947, § 5-1020; Acts 2009, No. 193, § 8.

A.C.R.C. Notes. Act 2011, No. 924, § 17, provided: "RESTRICTIONS. Arkansas Building Authority shall not demolish the 501 Building, formerly known as the Aegon building, but shall retain the building as suitable office space to be used by state agencies, boards, commissions, offices and departments.

"The provisions of this section shall be

in effect only from July 1, 2011 through June 30, 2012."

Amendments. The 2009 amendment, in (9)(A), inserted "flood plain management," deleted "and suspension and debarment of contractors" following the second instance of "capital improvements," and made a minor stylistic change.

22-2-114. Leasing responsibilities.

A.C.R.C. Notes. Acts 2011, No. 149, § 3, provided: "LEASING FROM ARKANSAS BUILDING AUTHORITY. The Board of Hearing Instrument Dispensers shall be exempt from Arkansas Building Authority leasing jurisdiction and proce-

dures as set out in Arkansas Code 22-2-114.

"The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012."

22-2-119. [Repealed.]

Publisher's Notes. This section, concerning fiscal management and creation of the Arkansas Building Authority Fund,

was repealed by Acts 2007, No. 186, § 9. The section was derived from Acts 1975, No. 716, § 12; A.S.A. 1947, § 5-1028.

CHAPTER 3

PUBLIC BUILDINGS AND OTHER FACILITIES

SUBCHAPTER.

2. CAPITOL BUILDING AND GROUNDS GENERALLY.
3. CAPITOL ZONING DISTRICT.
5. CAPITOL ARTS AND GROUNDS COMMISSION.
9. ARKANSAS JUSTICE BUILDING.
11. LIVESTOCK SHOW FACILITIES.
14. STATE AGENCIES FACILITIES ACQUISITION ACT.
18. ARKANSAS ENERGY AND NATURAL RESOURCE CONSERVATION ACT.
19. SUSTAINABLE BUILDING DESIGN PROGRAM.
20. ENERGY CONSERVATION IN PUBLIC BUILDINGS.

SUBCHAPTER 2 — CAPITOL BUILDING AND GROUNDS GENERALLY

SECTION.

- 22-3-210. Trespassing upon State Capitol grounds.
- 22-3-212. [Repealed.]

SECTION.

- 22-3-220. Smoking in State Capitol Building prohibited.

22-3-210. Trespassing upon State Capitol grounds.

(a)(1) It shall be unlawful for any person to ride, drive, walk, go, or enter upon the public lawns or grounds belonging to the State of Arkansas whereon is located the State Capitol Building unless the person confines himself or herself to the public driveways or walkways upon the grounds.

(2) However, this section shall not apply to the custodian of any state institutions or grounds, to any of his or her assistants, deputies, or employees, nor to any grounds laid out and designated by the custodian as playgrounds or public parks.

(b) Any person who violates subsection (a) of this section shall be guilty of a violation and upon conviction shall be fined not more than one hundred dollars (\$100).

History. Acts 1919, No. 323, §§ 1, 2; C. §§ 11869, 11870; A.S.A. 1947, §§ 5-211, & M. Dig., §§ 9183, 9184; Pope's Dig., 5-212; Acts 2005, No. 1994, § 143.

22-3-212. [Repealed.]

Publisher's Notes. This section, concerning skating in State Capitol Building with metal skates, was repealed by Acts 2005, No. 1994, § 561. The section was

derived from Acts 1919, No. 323, § 5; C. & M. Dig., § 9187; Pope's Dig., § 11873; A.S.A. 1947, § 5-215.

22-3-220. Smoking in State Capitol Building prohibited.

Any person smoking any cigarette, cigar, pipe, or other tobacco product in the State Capitol Building shall be guilty of a violation punishable by a fine of twenty-five dollars (\$25.00).

History. Acts 1997, No. 1323, § 1; 2000 (Ex. Sess.), No. 3, § 1; 2005, No. 1994, § 144.

SUBCHAPTER 3 — CAPITOL ZONING DISTRICT

SECTION.

22-3-308. Coordination by Capitol Zoning

District Commission with other agencies.

22-3-308. Coordination by Capitol Zoning District Commission with other agencies.

(a) The Capitol Zoning District Commission is authorized and encouraged to coordinate the comprehensive master zoning plan, to the greatest extent it deems practical, with city, county, and other area planning agencies.

(b)(1) Subject to the requirements of due process and consistent with any applicable federal restrictions and regulations as in effect on January 1, 2011, the commission may enter into agreements with the City of Little Rock providing for mutual cooperation and joint regulation within the Capitol Zoning District with respect to planning and zoning; permission to build upon or otherwise use land; the enforcement through stop work orders, citations, fines, and inspection to ensure compliance of building, safety, zoning, and health codes; and other matters within the jurisdiction of the commission.

(2) An agreement under subdivision (b)(1) of this section between the City of Little Rock and the commission may not cede the commission's

final authority and responsibility over the matters entrusted to it by law.

History. Acts 1975, No. 267, § 4; A.S.A. 1947, § 5-238; Acts 2011, No. 520, § 1.

Amendments. The 2011 amendment, in (b)(1), inserted "Subject to the requirements of due process and consistent with any applicable federal restrictions and regulations as in effect on January 1, 2011, the" at the beginning, "through stop

work orders, citations, fines, and inspection to ensure compliance," and "zoning," and deleted "and inspection to ensure compliance therewith" following "health codes"; and substituted "An agreement under subdivision (b)(1) of this section" for "Such agreements" in (b)(2).

SUBCHAPTER 5 — CAPITOL ARTS AND GROUNDS COMMISSION

SECTION.

22-3-501. Definitions.

22-3-502. Creation — Members, etc.

22-3-503. Powers and duties.

SECTION.

22-3-504. Requests — Contents, hearings, etc.

22-3-501. Definitions.

As used in this subchapter:

(1) "Project" means expenditures for capital construction or for capital improvements, including landscaping on the State Capitol grounds, but shall not include:

(A) Renovations, improvements, or remodeling within the interior of structures now existing on the State Capitol grounds;

(B) Repair or maintenance that does not substantially change the existing use of space on the State Capitol grounds, that does not add additional square footage to existing buildings or facilities, and that does not change exterior building design; or

(C) Individual plantings within an established landscaping plan that do not alter the overall plan concept;

(2) "Project" or "capital improvement project" means and includes the location of memorials, fountains, monuments, sculptures, and other works of art, including proposals for the relocation of any fountains, memorials, or monuments and similar facilities on the State Capitol grounds;

(3) "State agency" means any state board, commission, department, or any division thereof authorized by law to engage in capital construction or improvement projects on the State Capitol grounds; and

(4)(A) "State Capitol grounds" means all land, parking areas, and streets which are under the jurisdiction of the Secretary of State.

(B) This shall include the land, parking areas, and streets surrounding the State Capitol Building, the Capitol Hill Building, the Grounds Operations shop, and other land that is maintained by the Secretary of State.

History. Acts 1987, No. 665, §§ 3, 5; 1997, No. 1043, § 1; 2005, No. 1379, § 1.

22-3-502. Creation — Members, etc.

(a)(1) There is created a Capitol Arts and Grounds Commission.

(2) The commission shall be composed of ten (10) members as follows:

(A) The Governor or a designee;

(B) The Secretary of State or a designee who shall serve as the commission chair;

(C) The Director of the Arkansas Historic Preservation Program;

(D) The Director of the Department of Parks and Tourism;

(E) One (1) landscape architect in this state, to be named by the Secretary of State from a list of three (3) names submitted to him or her by the Arkansas Chapter of the American Society of Landscape Architects;

(F) One (1) licensed architect in this state, to be named by the Secretary of State from a list of three (3) names submitted to him or her by the Arkansas Chapter of the American Institute of Architects;

(G) Two (2) citizen members at large, to be appointed by the Secretary of State, who shall serve four-year terms; and

(H) The President Pro Tempore of the Senate shall appoint one (1) nonlegislator to serve at his or her pleasure as a member of the commission, and the Speaker of the House of Representatives shall appoint one (1) nonlegislator to serve at his or her pleasure as a member of the commission.

(b) Members of the commission shall serve without pay, but they shall be reimbursed by Secretary of State funds for reasonable and necessary expenses in attending commission meetings and in the performance of duties of the commission if funds are provided for the reimbursement in accordance with the rate prescribed for state employees in state travel regulations.

(c)(1) The commission shall meet on the call of the chair or on written request by any four (4) of its members.

(2) A majority vote of the voting members of the commission shall be necessary for the adoption of any action by the commission.

(d)(1) The terms of office of the members of the commission appointed by the Secretary of State shall be four (4) years.

(2)(A)(i) Within ninety (90) days prior to the expiration of the term of office of each professional member, the American Society of Landscape Architects may submit to the Secretary of State a list of three (3) names of licensed landscape architects for each position for which a term expires.

(ii) Within ninety (90) days prior to the expiration of the term of office of each professional member, the American Institute of Architects may submit to the Secretary of State a list of three (3) names of licensed architects for each position for which a term expires.

(B) Appointments expire June 30.

History. Acts 1987, No. 665, §§ 1, 2; §§ 1, 2; 1999, No. 1508, § 7; 2001, No. 1997, No. 250, § 216; 1997, No. 1043, § 2; 1288, §§ 20, 21; 2005, No. 1379, § 2. 1997, No. 1354, § 40; 1999, No. 1264,

22-3-503. Powers and duties.

(a) The Capitol Arts and Grounds Commission shall have the following powers and duties:

(1) To recommend the acquisition of land for such expansion of the State Capitol grounds as may be required to meet the needs of state agencies;

(2) To review and recommend to the Secretary of State on the location of monuments, memorials, fountains, and similar improvements on the State Capitol grounds or for the relocation of existing monuments, memorials, and fountains on the State Capitol grounds; and

(3) To review any permanent statue, statuary, fountain, monument, or memorial tablet to be erected in the public areas of the State Capitol Building or on its grounds for compliance with the adopted plan.

(b) The commission shall have the right to accept donations in money, pictures, paintings, statuary fountains, and memorial tablets on behalf of the state for the State Capitol Building. In cases of money donations, the commission shall have the right to expend the money in decorations, either in the building or on the grounds thereof. To that end, the commission may make all necessary contracts for the expenditure of the funds.

(c) Any monument on the State Capitol grounds approved by the commission must be authorized by an act of the General Assembly.

History. Acts 1987, No. 665, § 4; 1989, No. 880, § 1; 1997, No. 1043, § 3; 2005, No. 1379, § 3.

22-3-504. Requests — Contents, hearings, etc.

(a) Before any state agency shall undertake a capital improvement project, as defined in § 22-3-501, on the State Capitol grounds, a request shall be filed with the Capitol Arts and Grounds Commission for its review of the proposed project.

(b) The Capitol Arts and Grounds Commission may require that the requests include:

(1) Architectural and landscaping plans, if appropriate, for the project;

(2) Sufficient information to demonstrate compliance with applicable standards for development; and

(3) Sufficient information to demonstrate consistency of the project with zoning regulations of the Capitol Zoning District Commission.

(c) Upon receipt of a request for review of a project, the Capitol Arts and Grounds Commission shall hold a public meeting for the purpose of obtaining the views of the public on the proposed project. Notices of

meetings shall be mailed to interested persons, either by separate notice or by inclusion on the Capitol Arts and Grounds Commission's meeting agenda, at least ten (10) days in advance of the meeting.

(d) If, upon review of the request for review of the project, the Capitol Arts and Grounds Commission believes that more information relating to the project is required, the Capitol Arts and Grounds Commission may postpone action on the request and may ask the requesting agency or the Capitol Arts and Grounds Commission staff to provide additional information.

(e) If the Capitol Arts and Grounds Commission determines that the proposed project is in the best interest of the use of space on the State Capitol grounds, the Capitol Arts and Grounds Commission may give favorable advice.

(f) No state agency shall undertake a capital improvement project, as defined in § 22-3-501, on the State Capitol grounds unless the project is first submitted to and approved by the General Assembly.

History. Acts 1987, No. 665, § 6; 1989, No. 880, § 2; 1997, No. 1043, § 4; 2005, No. 1379, § 4.

SUBCHAPTER 9 — ARKANSAS JUSTICE BUILDING

SECTION.

22-3-902. Definitions.

22-3-917. Employment of architect — Fees.

SECTION.

22-3-921. [Repealed.]

22-3-922. [Repealed.]

22-3-923. Allocation of space.

22-3-902. Definitions.

As used in this subchapter:

(1) "Arkansas Justice Building" means any building constructed or purchased and renovated through the issuance of bonds under § 22-3-908 for the purpose of housing any of the agencies of the Arkansas judiciary as described in § 22-3-923(b)(1); and

(2) "Construction" means the initial construction and equipment of the Arkansas Justice Building and any subsequent reconstruction, equipment, extension, or improvement of the Arkansas Justice Building.

History. Acts 1955, No. 375, § 22, as added by Acts 1973, No. 632, § 4; A.S.A. 1947, § 5-621; Acts 2011, No. 191, § 1.

Amendments. The 2011 amendment rewrote this section.

22-3-917. Employment of architect — Fees.

(a)(1) The Arkansas Building Authority may employ an architect to prepare plans, specifications, and estimates of cost for the construction of the Arkansas Justice Building and to supervise and inspect the construction.

(2) The authority and the architect shall consult with the members of the Supreme Court concerning the plans and specifications for the construction.

(b)(1) The fees or commissions of the architect shall not exceed six percent (6%) of the total construction cost, and none of the fees or commissions are due and payable until the construction contracts are awarded and then only to the extent of sixty percent (60%) of the total amount of the fees or commissions.

(2) The remainder of the architect's fees or commissions are due and payable as the construction work progresses.

History. Acts 1955, No. 375, § 19; A.S.A. 1947, § 5-618; Acts 2011, No. 191, § 2.

Amendments. The 2011 amendment, in (a)(2), substituted "consult" for "advise"

and deleted "the Attorney General, the Workers' Compensation Commission, and the Arkansas Public Service Commission" following "Supreme Court."

22-3-921. [Repealed.]

Publisher's Notes. This section, concerning the lease to the Workers' Compensation Commission, was repealed by Acts 2011, No. 191, § 3. The section was de-

rived from Acts 1955, No. 375, § 11; A.S.A. 1947, § 5-611; Acts 1989 (3rd Ex. Sess.), No. 64, § 3.

22-3-922. [Repealed.]

A.C.R.C. Notes. As enacted, Acts 2011, No. 191, contained two sections designated as § 4.

Publisher's Notes. This section, concerning the lease to the Arkansas Public

Service Commission, was repealed by Acts 2011, No. 191, § 4. The section was derived from Acts 1955, No. 375, § 13; A.S.A. 1947, § 5-612; Acts 1989 (3rd Ex. Sess.), No. 64, § 4.

22-3-923. Allocation of space.

(a)(1) It is found and determined by the General Assembly that:

(A) The Arkansas Justice Building was constructed primarily to house the higher appellate courts and that other agencies were permitted to occupy portions of the building only because the space was not needed by the courts at that time;

(B) Since construction of the building, the electors of the state authorized the establishment of a new appellate court, the Court of Appeals;

(C) The Court of Appeals is in urgent need of additional space in the Arkansas Justice Building in order to perform its responsibilities; and

(D) It is essential that the additional space to be provided the Court of Appeals is contiguous to the space now assigned to that court.

(2) Furthermore, it is the purpose and intent of this section to establish specific priorities for use of space in the Arkansas Justice Building and to specifically authorize the Arkansas Building Authority to allocate space in the Arkansas Justice Building in accordance with

those priorities to assure that the appellate courts and the services and facilities essential to the effective and efficient operation of the courts, such as library facilities, are given first priority in the use of space in the building.

(b)(1) Space in the Arkansas Justice Building shall be allocated by the authority, after seeking the advice of the Joint Interim Committee on Legislative Facilities, to the following courts, library, and offices in the order of priority listed:

- (A) The Supreme Court;
- (B) The Court of Appeals;
- (C) The Clerk of the Supreme Court;
- (D) The Supreme Court Library; and
- (E) The Administrative Office of the Courts.

(2) The space requirements of each court, library, or office listed in this subsection must be adequately met before any space is allocated to any other office or agency.

(c) If the space requirements of the courts, library, and offices listed in subsection (b) of this section are adequately met, the authority, after seeking the advice of the Joint Interim Committee on Legislative Facilities, may allocate any additional space to any other offices or agencies it deems appropriate.

(d) The authority shall allocate space in accordance with the priorities prescribed in this section as soon as practicable after April 3, 1985, in order that the additional space allocated to the courts, library, and offices enumerated in this section shall be available on or before July 1, 1985.

(e)(1) The provisions of §§ 22-3-901 — 22-3-918 and the covenants and obligations of the authority entered into in connection with the issuance of bonds under §§ 22-3-901 — 22-3-918 are ratified and confirmed.

(2) Nothing in this section is intended or shall be interpreted to alter the amounts of, due dates for, or obligors of lease rentals payable pursuant to leases entered into between the authority and any lessee identified in §§ 22-3-901 — 22-3-918 or any successor thereto, or to alter the handling, deposit, or application of the lease rentals.

History. Acts 1985, No. 791, §§ 1-6; A.S.A. 1947, §§ 5-622 — 5-627; Acts 2003, No. 364, § 15; 2011, No. 191, § 4[5].

A.C.R.C. Notes. As enacted, Acts 2011, No. 191, contained two sections design-

nated as § 4.

Amendments. The 2011 amendment deleted “22-3-921, and 22-3-922” following “22-3-918” in (e)(1) and (2).

SUBCHAPTER 10 — WAR MEMORIAL STADIUM

A.C.R.C. Notes. Acts 2011, No. 942, § 5, provided: “APPROPRIATION RESTRICTIONS — LAND ACQUISITION. In no event shall any funds appropriated to the War Memorial Stadium Commission be used for the acquisition of real

estate without the prior review and approval of the Arkansas Legislative Council or Joint Budget Committee.

“Determining the maximum number of employees and the maximum amount of appropriation and general revenue fund-

ing for a state agency each fiscal year is the function of the General Assembly. This is usually accomplished by delineating such maximums as the appropriation in the appropriation act(s) for a state agency and the general revenue allocations authorized for each fund and fund account by amendment to the Revenue Stabilization law. Therefore, it is both necessary and appropriate that the General Assembly maintain oversight by requiring prior approval of the Legislative Council or Joint Budget Committee as provided by

this section. The requirement of approval by the Legislative Council or Joint Budget Committee is not a severable part of this section. If the requirement of approval by the Legislative Council or Joint Budget Committee is ruled unconstitutional by a court of competent jurisdiction, then the authority of the Commission to acquire real estate is void.

“The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012.

SUBCHAPTER 11 — LIVESTOCK SHOW FACILITIES

SECTION.

22-3-1101. Acquisition of facilities by state for holding the Arkansas State Fair and Livestock Show — Lease

SECTION.

and sublease — Option to purchase.
22-3-1102. Eminent domain.

22-3-1101. Acquisition of facilities by state for holding the Arkansas State Fair and Livestock Show — Lease and sublease — Option to purchase.

(a)(1) The Arkansas Building Authority may enter into an agreement with the Arkansas State Fair and Livestock Show Association and make such contracts as are necessary for the purpose of purchasing the permanent site of the association and for the purchase or construction of buildings and facilities for the holding of the Arkansas State Fair and Livestock Show.

(2) Any lands, buildings, or other improvements purchased by the state out of funds so provided shall belong to the State of Arkansas, and the authority is empowered to enter into an agreement with and execute a lease for a term of fifty (50) years to the association for the use of the facilities for the sum of one dollar (\$1.00) per year.

(3) The lease shall be:

(A) Executed at the time the state acquires title to the site now owned by the association; or

(B) Extended as provided in this section.

(4) The authority reserves the right to cancel the lease, and it shall be forfeited back to the state in the event that no show is held during a period of four (4) consecutive years, unless the holding of any show is made impracticable by reason of war or acts of God.

(b)(1) The association shall have the power to select architects and to draw and approve plans and supervise the construction of the buildings and improvements for the Arkansas State Fair and Livestock Show.

(2) During the lifetime of the lease, the association shall be given the option to purchase the lands, buildings, and improvements upon the payment to the state of the principal amount due to the state on the purchase price.

(c)(1) The authority shall negotiate with the association and execute a lease with it for a term expiring December 31, 2055, for the sum of one dollar (\$1.00) per year.

(2) The lease shall include a provision that portions of the grounds suitable for the use of a standard stock car racing track and quarter horse racing track may be subleased by the association to any person who will, as a part of the transaction:

(A) Hard-surface the automobile racetrack;

(B) Build appropriate guardrails around the track;

(C) Build a grandstand for spectators;

(D) Build adequate concession stands and restroom facilities; and

(E) Allow that portions of the grounds may be leased to other persons for use in connection with and consistent with the Arkansas State Fair and Livestock Show activities.

(3) The property that is the subject of the lease described in this subsection includes the following lands constituting a part of the association grounds and parking areas lying within Pulaski County, Arkansas:

(A) Lots 7, 8, 9, 10, 11, and 12, Block 2, Nettie F. Riffel Addition, City of Little Rock, Arkansas;

(B) Lots 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12, Block 3, Nettie F. Riffel Addition, City of Little Rock, Arkansas;

(C) Lots 1, 2, 3, 4, 5, and 6, Block 4, Nettie F. Riffel Addition, City of Little Rock, Arkansas;

(D) Lots 1, 2, 3, 4, and 5, Block 5, Nettie F. Riffel Addition, City of Little Rock, Arkansas;

(E) Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10, Block 6, Nettie F. Riffel Addition, City of Little Rock, Arkansas;

(F) Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10, Block 7, Nettie F. Riffel Addition, City of Little Rock, Arkansas;

(G) Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10, Block 8, Nettie F. Riffel Addition, City of Little Rock, Arkansas;

(H) All of that part of the South $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ and the Southeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 16, Township 1 North, Range 12 West, that lies East of the Rock Island Railway;

(I) Two (2) acres in the Southeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 16, Township 1 North, Range 12 West, beginning at the point of intersection or the East boundary line of the right-of-way of the Choctaw and Memphis Railway (New CRI P Railway) and South boundary of said Southeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of said Section 16, running thence in a northwesterly direction along said right-of-way boundary 540 feet, thence due East parallel to the South boundary of said Southeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ 165 feet, thence due South parallel to the East boundary line of said southeast $\frac{1}{4}$ of the northwest $\frac{1}{4}$ 535 feet to the point of beginning, containing exactly two (2) acres;

(J) All that part of the Southeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 16, Township 1 North, Range 12 West, lying east of the Missouri

Pacific Railway and South of a line established by following the East line of the Missouri Pacific Railway south 828 feet from its intersection with the North line of the Southwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$, thence East 381 feet, thence Northeast parallel with the railway 150 feet, thence East to the East line of the Southwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$; and

(K) The South 755.5 feet of that part of the Southeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 16, Township 1 North, Range 12 West, lying West of the CRI P R/W, containing six and one-half acres.

(d)(1) The authority shall negotiate with the association and execute a lease with it for a term expiring December 31, 2055, for the sum of one dollar (\$1.00) per year.

(2) The property that is the subject of the lease described in this subsection includes the following lands lying within Pulaski County, Arkansas:

(A) Lots 1 and 2, Block 2, Nettie F. Riffel Addition, City of Little Rock, Arkansas;

(B) The West $\frac{1}{3}$ of lots 11 and 12, Block 1, Nettie F. Riffel Addition, City of Little Rock, Arkansas;

(C) Lots 5, 11, and 12, Block 4, McCarthy's Addition, City of Little Rock, Arkansas;

(D) Lot 7, Block 11, Sunset Addition to the City of Little Rock, Pulaski County, Arkansas, and the West $\frac{1}{2}$ of an adjacent closed alley. And that part of West 32nd and Schiller Streets beginning at the Southeast corner of Lot 7, Block 11, Sunset Addition, thence South 25 feet, thence West 165 feet, thence North 25 feet, thence East 165 feet to the point of beginning; and

(E) Lots 1 to 22, incl, Block 21; Lots 1 to 22, Block 22; Lots 1 to 11 include Block 26; Lots 12 to 22, Block 29; Lots 1 to 11, incl, Block 23, Adams Addition to the City of Little Rock, Arkansas.

History. Acts 1945, No. 313, § 4; 1973, No. 569, § 1; A.S.A. 1947, §§ 78-1601, 78-1601.1; Acts 2005, No. 125, §§ 1-3; 2007, No. 130, § 1.

Amendments. The 2007 amendment substituted "The West $\frac{1}{3}$ " for "West $46\frac{2}{3}$ " in (d)(2)(B); and added (d)(2)(E) and made related changes.

22-3-1102. Eminent domain.

(a) From and after the passage and approval of this section, the Arkansas Building Authority may acquire by eminent domain any real property, including the improvements and fixtures on the property that it may deem necessary to provide a permanent site and show facilities for a state fair and livestock show and for aid to the livestock industry.

(b) The authority, upon adoption of a resolution declaring that the acquisition of the property described in the resolution is in the public interest and necessary for public use, may exercise the power of eminent domain:

(1) In the manner provided by §§ 18-15-1202 — 18-15-1207 for taking private property for rights-of-way for railroads;

- (2) In the manner provided by §§ 18-15-301 — 18-15-307; or
 (3) Pursuant to any other applicable statutory provision for the exercise of the power of eminent domain.

History. Acts 1947, No. 253, §§ 1, 2; A.S.A. 1947, §§ 78-1602, 78-1603; Acts 2005, No. 125, § 4.

SUBCHAPTER 14 — STATE AGENCIES FACILITIES ACQUISITION ACT

SECTION.

22-3-1403. Definitions.

22-3-1403. Definitions.

As used in this subchapter:

(1) “Agency” or “state agency” means any agency, board, office, commission, department, division, or institution of the State of Arkansas;

(2) “Arkansas Building Authority” means the public agency known as Arkansas Building Authority and the Arkansas Building Authority Council, as established under § 22-2-101 et seq.;

(3) “Authority” means the Arkansas Development Finance Authority created pursuant to § 15-5-101 et seq.;

(4) “Bonds” or “revenue bonds” means any bonds, notes, debentures, interim certificates, grant and revenue anticipation notes, interest in a lease, lease certificates of participation, or evidences of indebtedness, whether or not the interest on them is subject to federal income taxation; and

(5) “Construct” means to acquire, construct, reconstruct, remodel, install, and equip any lands, buildings, structures, improvements, or other property, real, personal, or mixed, useful in connection therewith and to make other necessary expenditures in connection therewith by such methods and in such manner as Arkansas Building Authority shall determine to be necessary or desirable to accomplish the powers, purposes, and authority set forth in this subchapter.

History. Acts 1991, No. 1173, § 2; substituted “Arkansas Building Authority” for “Arkansas State Building Services” in (5).
 1999, No. 1182, § 2; 2007, No. 186, § 10.
Amendments. The 2007 amendment

SUBCHAPTER 18 — ARKANSAS ENERGY AND NATURAL RESOURCE CONSERVATION ACT

SECTION.

22-3-1801. Title.

22-3-1802. Findings and purpose.

22-3-1803. Definitions.

22-3-1804. Standards for Arkansas.

22-3-1805. Application to state building projects.

SECTION.

22-3-1806. Legislative Task Force on Sustainable Building Design and Practices.

Effective Dates. Acts 2005, No. 1770, § 2: July 1, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that there is a need to incorporate energy and natural resource conservation measures into state buildings and state-funded buildings; that this act will assist the state to provide better use of natural

resources, and that this act is immediately necessary because of the need to incorporate standards into new construction. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005."

22-3-1801. Title.

This subchapter shall be known and may be referred to as the "Arkansas Energy and Natural Resource Conservation Act".

History. Acts 2005, No. 1770, § 1.

22-3-1802. Findings and purpose.

(a) It is found and determined by the General Assembly that:

(1) State-funded building projects have a significant impact on the environment of our Natural State, the economy, and the health and productivity of building inhabitants;

(2) State government currently spends approximately seventy million dollars (\$70,000,000) annually for electricity and natural gas consumed in state buildings, and energy expenditures have been increasing at nearly four percent (4%) per year over the last ten (10) years;

(3) It is incumbent upon Arkansas state government to lead by example to minimize energy use and environmental impact in state buildings;

(4) Innovations in building science, technology, and operations are available to maximize the economic utility of state-funded building projects and reduce energy costs, while achieving the best environmental performance and reducing adverse impacts on the environment; and

(5) Incorporating principles of sustainability in building design will enhance efficient management of material resources and waste, protect health and indoor environmental quality, reduce the longer-term costs of construction and operation of state-funded buildings, and promote the use of appropriate Arkansas products in the buildings.

(b) In recognition of the economic, energy conservation, and environmental benefits of sustainable building design, it is in the best interest of the State of Arkansas to initiate a process to encourage improved building practices, to provide support and information to assist state agencies in carrying out the purposes of this subchapter, and to continue development of the best building practices through a legislative task force to evaluate and report to the General Assembly the progress being made under this subchapter.

History. Acts 2005, No. 1770, § 1.

22-3-1803. Definitions.

As used in this subchapter:

(1) “Adaptive reuse” means the modification to accommodate a function other than its original intent of any building site and existing inhabited structure;

(2)(A) “Building project” means any inhabited physical structure and project building site. The phrase includes any structure in which any individual spends more than an hour of time within the structure such as residences, offices, visitors centers, classrooms, administration buildings, etc.

(B) “Building project” does not include ancillary structures or buildings with temporary occupancy such as park restrooms, pavilions, storage facilities, or similar structures;

(3) “Grant applicant” means any individual, institution, governmental jurisdiction, or other organization recognized by the granting department or agency as qualified to apply for financial assistance from any state department, agency, or office for the purpose of planning, designing, or constructing a new or rehabilitated building;

(4)(A) “Green Globes” means the online environmental assessment tool developed by the Green Building Initiative as of December 2004.

(B) “Green Globes” allows designers, property owners, and managers to evaluate and rate buildings against best sustainable building design and practices and integrate principles of sustainable architecture at every stage of project delivery in order to design and construct buildings that will be energy-efficient and resource-efficient, achieve operational savings, and provide healthier environments in which to live and work;

(5)(A) “Leadership in Energy and Environmental Design” means the following building rating systems developed by the United States Green Building Council:

(i) LEED-NC 2.1, as it exists on January 1, 2005;

(ii) LEED-EB, as it exists on January 1, 2005; or

(iii) LEED-CI, as it exists on January 1, 2005.

(B) “Leadership in Energy and Environmental Design” allows designers, property owners, and managers to evaluate and rate buildings against best sustainable building design and practices and to integrate principles of sustainable architecture at every stage of project delivery in order to design and construct buildings that will be energy-efficient and resource-efficient, achieve operational savings, and provide healthier environments in which to live and work;

(6) “Newly designed construction project” means any building and its building site for which a contract has been entered into beginning July 1, 2005, to construct a building and building site improvements as outlined in Leadership in Energy and Environmental Design or Green Globes rating systems;

(7) "Project building site" means all property associated with a building, including the defined legal description of the property or the defined project limits;

(8)(A) "Project limits" means the physical boundaries of a construction project within which all construction activity must occur.

(B) "Project limits" includes material and equipment storage space, lay-down or prefabrication space, clearing, grubbing, and drainage improvements;

(9) "Project team" means the persons or individuals representing the state agency or owner, professional design consultants, and building contractor, if a contractor is determined prior to design;

(10) "Proposed construction project" means all building construction projects in the conceptual planning stages for which a design contract has been executed after July 1, 2005;

(11) "Public and private partnerships" means any private development that uses state money to assist in the planning, design, or construction of a building project, such as a building project providing economic incentives for development;

(12) "Public funding" means federal or state funds that are allocated for a state building project;

(13) "Rehabilitation project" means any building project involving the modification or adaptive reuse of an existing facility in which twenty-five percent (25%) or more of the physical structure, facade, or interior space of a facility is being changed or modified;

(14) "State agency" means all departments, offices, boards, commissions, and institutions of the state, including the state-supported institutions of higher education;

(15) "State building project" means any inhabited physical structure and project building site in which:

(A) A state agency secures the design or construction contract; and

(B) Public funding is used in whole or in part to design or construct the project; and

(16) "Sustainable" means that:

(A) A building integrates building materials and methods that promote environmental quality, energy conservation, economic vitality, and social benefit through the design, construction, and operation of the built environment;

(B) A building merges sound, environmentally responsible practices into one (1) discipline that looks at the environmental, economic, and social effects of a building or built project as a whole; and

(C) The design encompasses the following broad topics:

(i) Efficient management of energy and water resources;

(ii) Management of material resources and waste;

(iii) Protection of environmental quality;

(iv) Protection of health and indoor environmental quality;

(v) Reinforcement of natural systems; and

(vi) Integrating the design approach.

History. Acts 2005, No. 1770, § 1.

22-3-1804. Standards for Arkansas.

(a) If a state agency decides to pursue either the Leadership in Energy and Environmental Design certification or the Green Globes certification, the standards of this section shall apply for the purpose of state building projects.

(b)(1) Use of the Leadership in Energy and Environmental Design rating system shall be with the following supplemental provisions specific to state building projects:

(A) Under LEED EQ Credit 4.4, one (1) point shall be awarded for the use of composite wood and agrifiber products if the architect or responsible party provides appropriate documentation that the products are third-party certified as meeting the American National Standards Institute standard requirements, ANSI A208.1 for Particleboard Standard, ANSI A 208.2 for MDF, for formaldehyde emissions, or contain no added urea-formaldehyde;

(B) Under LEED MR Credit 4, one (1) point shall be awarded when the sum of postconsumer recycled content plus one-half ($\frac{1}{2}$) of the preconsumer recycled content constitutes at least ten percent (10%) of the total value of the materials in the project. A second point shall be awarded if the sum of postconsumer recycled content plus one-half ($\frac{1}{2}$) of the preconsumer content constitutes at least twenty percent (20%) of the total value of the materials in the project. The valuation is to be determined by using the LEED-NC letter template;

(C) Under LEED MR Credit 6, one (1) point shall also be awarded for the use of renewable, bio-based materials for five percent (5%) of the total value of all the products used in the project that are either residuals of or products grown or harvested under a recognized sustainable management system such as the Forest Stewardship Council, the Sustainable Forestry Initiative program, the American Tree Farm System, the Canadian Standards Association, the Organic Trade Association, and the Association for Bamboo in Construction. The applicable vendor's or manufacturer's certification documentation must be provided;

(D) Under LEED MR Credit 7, one (1) point shall also be awarded for the use of renewable, bio-based raw materials certified in accordance with one (1) or more premier certification programs for environmental management for fifty percent (50%) of the total value of all bio-based materials and products used in the project. Certification programs include, but are not limited to, the Forest Stewardship Council, the Sustainable Forestry Initiative, the American Tree Farm System, the Canadian Standards Association, the Organic Trade Association, and the Association for Bamboo in Construction. The applicable vendor's or manufacturer's certification documentation must be provided;

(E) Under LEED ID Credit 1.1, one (1) point will be awarded if five percent (5%) or more of the mass of all building materials used are

carbon-sequestering bio-based products managed under a recognized sustainable management plan; and

(F) Under LEED ID Credit 1.2, one (1) point will be awarded for the use of bio-based materials derived from multiple credible certified sources supported by an environmental management system certified under the International Organization for Standardization standard ISO 14001, including the Forest Stewardship Council, the Sustainable Forestry Initiative, the American Tree Farm System, the Canadian Standards Association, the Organic Trade Association, and the Association for Bamboo in Construction. The applicable vendor's or manufacturer's certification documentation must be provided.

(2) Use of the Green Globes rating system shall be with the following supplemental provision specific to state building projects:

(A) An additional fifteen (15) points shall be awarded if five percent (5%) or more of the mass of all building materials used are carbon-sequestering wood bio-based products; and

(B) Fifteen (15) points will be awarded for the use of bio-based materials derived from multiple credible certified sources supported by an environmental management system certified under the International Organization for Standardization standard ISO 14001, including the Forest Stewardship Council, the Sustainable Forestry Initiative, the American Tree Farm System, the Canadian Standards Association, the Organic Trade Association, and the Association for Bamboo in Construction. The applicable vendor's or manufacturer's certification documentation must be provided.

History. Acts 2005, No. 1770, § 1.

22-3-1805. Application to state building projects.

State agencies conducting or funding a public building project or rehabilitation project are encouraged to refer to and should utilize, whenever possible and appropriate, the Leadership in Energy and Environmental Design or Green Globes rating systems referred to in this subchapter.

History. Acts 2005, No. 1770, § 1.

22-3-1806. Legislative Task Force on Sustainable Building Design and Practices.

(a) The Legislative Task Force on Sustainable Building Design and Practices is established to:

(1) Continue to review, discuss, and advise on issues related to sustainable design and practices for buildings;

(2) Monitor case-study projects and evaluate performance and outcomes relevant to high-performance building strategies;

(3) Serve as a reference for educational resources;

(4) Ask for a review of sustainable building design and practices performed by state agencies;

(5) Develop goals and strategies to promote energy efficiency in state buildings; and

(6) Identify and promote new and innovative air conditioning and heating products or services that conserve energy and reduce energy usage.

(b)(1) The task force shall be composed of no more than twenty (20) members. The number of members shall be determined by agreement between the Chair of the Senate Committee on Public Health, Welfare, and Labor and the Chair of the House Committee on Public Health, Welfare, and Labor.

(2) The Chair of the Senate Committee on Public Health, Welfare, and Labor and the Chair of the House Committee on Public Health, Welfare, and Labor shall appoint the membership pursuant to procedure agreed upon by the chairs.

(3) The task force shall include members of the General Assembly and members of the public.

(4) The cochairs of the task force shall be members of the General Assembly. One (1) cochair shall be a member of the Senate and one (1) cochair shall be a member of the House of Representatives.

(c) The legislative members of the task force shall be entitled to mileage and per diem at the same rate as for attending other legislative committees.

(d) The task force shall receive staff support from the Bureau of Legislative Research.

History. Acts 2005, No. 1770, § 1; added (a)(5) and (6); substituted "2009" for 2007, No. 1034, §§ 1, 2; 2009, No. 1336, § 1. "2007" in (e); and made related changes.

The 2009 amendment deleted (e).

Amendments. The 2007 amendment

SUBCHAPTER 19 — SUSTAINABLE BUILDING DESIGN PROGRAM

SECTION.

22-3-1901. Sustainable Building Design Program for State Agencies.

SECTION.

22-3-1902. Rules.

22-3-1903. Loans.

22-3-1904. Loan approval process.

22-3-1901. Sustainable Building Design Program for State Agencies.

There is created the Sustainable Building Design Program for State Agencies to be administered by the Arkansas Building Authority.

History. Acts 2009, No. 1372, § 1.

22-3-1902. Rules.

(a) The Arkansas Building Authority shall promulgate rules for the implementation of the Sustainable Building Design Program for State Agencies.

(b) The rules shall include without limitation:

- (1) Application forms;
- (2) Origination fees, if any;
- (3) Eligibility requirements;
- (4) Review standards; and
- (5) Loan requirements.

History. Acts 2009, No. 1372, § 1.

22-3-1903. Loans.

(a) Under the Sustainable Building Design Program for State Agencies, the Arkansas Building Authority may authorize money to be loaned from the Sustainable Building Design Revolving Loan Fund to a state agency, board, or commission.

(b) A loan made under subsection (a) of this section shall be:

- (1) For a renovation of state-owned property; and
- (2) In an amount that exceeds two hundred fifty thousand dollars (\$250,000).

(c)(1) The authority shall credit an origination fee to the Arkansas Building Authority Maintenance Fund for expenses associated with the administration of the program.

(2) The term for repayment of the loan may not exceed ten (10) years.

History. Acts 2009, No. 1372, § 1.

Sustainable Building Design Revolving Loan Fund, 19-5-1238.

Cross References. Arkansas Building Authority Maintenance Fund, 19-5-1046.

22-3-1904. Loan approval process.

(a) An applicant for a loan from the Sustainable Building Design Revolving Loan Fund shall:

(1) Apply on a form approved by the Arkansas Building Authority; and

(2)(A) Remit an origination fee of one-half of one percent (0.5%) of the requested amount of the loan.

(B) However, the amount of the origination fee shall not exceed two thousand five hundred dollars (\$2,500).

(b) The authority shall review the application to determine if the applicant satisfies the eligibility criteria for a loan from the revolving loan fund.

(c) The authority shall provide the applicant written notice of its determination whether to offer a loan from the revolving loan fund and any conditions for making the loan.

(d) After the applicant has satisfied any preconditions, if any, for the authority's approval of the loan and has executed a contract for the loan, the authority shall forward the loan contract to the Department of Finance and Administration and the Governor for their approval.

History. Acts 2009, No. 1372, § 1.

ing Design Revolving Loan Fund, 19-5-

Cross References. Sustainable Build- 1238.

SUBCHAPTER 20 — ENERGY CONSERVATION IN PUBLIC BUILDINGS

SECTION.

- 22-3-2001. Legislative findings.
- 22-3-2002. Definitions.
- 22-3-2003. The Sustainable Energy-Efficient Buildings Program.
- 22-3-2004. Standards for a major facility or a major renovation.
- 22-3-2005. Purchase of a constructed or renovated building.
- 22-3-2006. Program to manage energy usage of public agencies.

SECTION.

- 22-3-2007. Application to historic and unique buildings.
- 22-3-2008. Advisory committee for the Arkansas Energy Office of the Arkansas Economic Development Commission.
- 22-3-2009. Rules.
- 22-3-2010. Performance review — Report.
- 22-3-2011. Applicability.

22-3-2001. Legislative findings.

The General Assembly finds that:

(1)(A) Public buildings can be built and renovated using sustainable, energy-efficient methods that save money, reduce negative environmental impacts, improve employee and student performance, and make employees and students more productive.

(B) The main objectives of sustainable, energy-efficient designs are to:

- (i) Avoid resource depletion of energy, water, and raw materials;
- (ii) Prevent environmental degradation caused by facilities and infrastructure throughout their life cycle; and
- (iii) Create buildings that are livable, comfortable, safe, and productive; and

(2) State-owned buildings and buildings owned by an institution of higher education can be improved by establishing specific performance criteria and goals for sustainable, energy-efficient public buildings that are based on recognized, consensual standards with a scientifically proven basis and a history of successful performance.

History. Acts 2009, No. 1494, § 1.

22-3-2002. Definitions.

As used in this subchapter:

(1) “Institution of higher education” means a state-supported university or college;

(2) “Life-cycle cost analysis” means an analytical technique that considers the costs of owning, using, and operating a facility over its economic life including without limitation:

- (A) Initial costs;
- (B) System repair and replacement costs;
- (C) Maintenance costs;
- (D) Operating costs, including energy costs; and
- (E) Salvage value;

(3)(A) “Major facility” means a construction project larger than twenty thousand (20,000) gross square feet of occupied or conditioned space.

(B) “Major facility” does not include a transmitter building or a pumping station;

(4) “Major renovation” means a building renovation project that:

(A) Costs more than fifty percent (50%) of its current replacement value;

(B) Is larger than twenty thousand (20,000) gross square feet of occupied or conditioned space; and

(C) Is funded in whole or in part by the state;

(5) “Public agency” means a state agency, office, officer, board, department, or commission; and

(6) “Sustainable, energy-efficient public building” means a public building that, by complying with this subchapter, has the most economical energy and water efficiency for that type of building.

History. Acts 2009, No. 1494, § 1.

22-3-2003. The Sustainable Energy-Efficient Buildings Program.

(a) The Sustainable Energy-Efficient Buildings Program is established to promote energy conservation in buildings owned by public agencies and buildings owned by institutions of higher education.

(b) Under the Sustainable Energy-Efficient Buildings Program:

(1) For public agencies, the Arkansas Energy Office shall develop and:

(A) Issue policies and technical guidelines to establish procedures and methods for compliance with the criteria and the performance standards for a major facility or a major renovation under § 22-3-2004; and

(B) Administer an energy management program designed to achieve compliance with the requirements of § 22-3-2006 through the implementation of energy conservation measures; and

(2) For the institutions of higher education, each institution of higher education:

(A) Shall develop and issue policies and technical guidelines to establish procedures and methods for compliance with the criteria and the performance standards for a major facility or a major renovation under § 22-3-2004; and

(B) May administer an energy management program designed to achieve compliance with the requirements of § 22-3-2006 through the implementation of energy conservation measures.

History. Acts 2009, No. 1494, § 1; 2011, No. 803, § 1.

Amendments. The 2011 amendment deleted “and an operation and maintenance program” following “energy management program” in (b)(1)(B) and (b)(2)(B).

22-3-2004. Standards for a major facility or a major renovation.

(a) The following minimum standards apply to a major facility:

(1) A major facility of a public agency or an institution of higher education shall be designed, constructed, and certified to at least ten percent (10%) reduction below the baseline energy consumption determined in accordance with the Performance Rating Method of Appendix G of the American Society of Heating, Refrigerating, and Air-Conditioning Engineers, Standard 90.1-2007, as it existed on January 1, 2009;

(2) Subdivision (a)(1) of this section applies to a major facility project that has not entered the schematic design phase before July 31, 2009; and

(3) An exception or a special standard for a specific type of building or building facility that is found in the American Society of Heating, Refrigerating, and Air-Conditioning Engineers, Standard 90.1-2007, is included in the American Society of Heating, Refrigerating, and Air-Conditioning Engineers, Standard 90.1-2007, under subdivision (a)(1) of this section.

(b)(1) A major renovation of a public agency or an institution of higher education shall be certified to at least ten percent (10%) reduction below the baseline energy consumption determined in accordance with the Performance Rating Method of Appendix G of the American Society of Heating, Refrigerating, and Air-Conditioning Engineers, Standard 90.1-2007, as it existed on January 1, 2009.

(2) Subdivision (b)(1) of this section applies to a major renovation that has not entered the schematic design phase before July 31, 2009.

(c) For new construction under either subsection (a) or (b) of this section:

(1) The indoor water system shall be designed and constructed to use at least twenty percent (20%) less potable water than the indoor water use baseline calculated for the building after satisfying the fixture performance requirement, if any, under the Arkansas Plumbing Code; and

(2) Outdoor potable water or harvested groundwater consumption shall use water-use-efficient landscape materials and irrigation strategies, including without limitation water reuse and recycling, to reduce conventional consumption by at least fifty percent (50%) of the water that would have been consumed otherwise.

(d) If the Arkansas Energy Office or the institution of higher education determines the American Society of Heating, Refrigerating, and Air-Conditioning Engineers, Standard 90.1-2007 is not practicable for a major facility or major renovation, the Arkansas Energy Office or the institution of higher education shall determine a practicable alternative standard for the design and construction for that major facility or major renovation.

(e) To verify the performance of a building component or system and ensure that design requirements are met upon completion of construction, building or system commissioning practices that are tailored to the

size and complexity of the building and its system components shall be employed.

(f) To measure and verify a major facility's performance under this section's standards:

(1) A building level owner's meter for electricity, natural gas, fuel oil, and water shall be installed in accordance with the guidelines issued by the United States Department of Energy under § 103 of the Energy Policy Act of 2005, Pub. L. No. 109-58; and

(2)(A) The public agency or institution of higher education and the building designers shall:

(i) Compare metered data from the first twelve (12) months of the building's operation with the energy design target; and

(ii) Report the performance results of that comparison to the Arkansas Energy Office or to the governing board of the institution of higher education.

(B) If the report under subdivision (f)(2)(A)(ii) of this section shows that the building's average energy or water consumption over the one-year period after the date of beneficial occupancy is more than the baseline consumption determined in accordance with the Performance Rating Method of Appendix G of the American Society of Heating, Refrigerating, and Air-Conditioning Engineers, Standard 90.1-2007, as it existed on January 1, 2009, the designer, the owner public agency or the owner institution of higher education, the contractor, the contract manager at risk, and the commissioning agent shall:

(i) Investigate;

(ii) Determine the cause for the failure to achieve this section's performance standards; and

(iii) Recommend corrections or modifications to meet this section's performance standards.

History. Acts 2009, No. 1494, § 1; 2011, No. 803, §§ 2-4.

Amendments. The 2011 amendment made no changes to the section.

22-3-2005. Purchase of a constructed or renovated building.

(a) A public agency shall not purchase a building that:

(1) Did not meet the design and construction standards that were applicable for a comparable building at the time of its construction; or

(2) Had a major renovation that did not meet the standard for energy and water efficiency that was applicable for a comparable building at the time of the major renovation.

(b) This section does not apply to:

(1) The purchase of a building that has historic, architectural, or cultural significance;

(2) A building that is acquired by devise or gift; or

(3) A building that is purchased for demolition.

History. Acts 2009, No. 1494, § 1.

22-3-2006. Program to manage energy usage of public agencies.

(a) The Arkansas Energy Office shall:

(1) Develop an energy program to manage energy, water, and other utility uses for public agencies that will reduce total energy consumption per gross square foot for all existing state buildings by twenty percent (20%) by 2014 and thirty percent (30%) by 2017 based on energy consumption for the 2007—2008 fiscal year if the savings can be justified by a life-cycle cost analysis; and

(2) Update this program annually.

(b) To implement its plan, the Arkansas Energy Office shall to the extent funds are available:

(1) Develop and implement policies, procedures, and standards to ensure that a public agency's purchasing practices:

(A) Improve the efficiency of energy, water, and other utility uses; and

(B) Consider the cost of the product over its economic life;

(2)(A) Adopt and implement building energy design guidelines for public agencies that include without limitation:

(i) Energy-use goals and standards;

(ii) Economic assumptions for life-cycle cost analysis; and

(iii) Other criteria for building systems and technologies.

(B) The Arkansas Energy Office shall modify the design criteria for the construction or the renovation of the facilities of a public facility to require the conducting of a life-cycle cost analysis;

(3) Identify and recommend energy conservation maintenance and operating procedures that:

(A) Are designed to reduce energy consumption within the public facility; and

(B) Require no significant expenditure of funds;

(4) Require the maximum interchangeability and compatibility of equipment components when energy management equipment is proposed for any facility of a public agency; and

(5)(A) Develop an energy audit and a procedure for conducting an energy audit.

(B)(i) Within five (5) years after June 30, 2011, each public agency occupying a state-owned building shall complete an energy audit using American Society of Heating, Refrigerating and Air-Conditioning Engineers audit procedures and report the findings to the Arkansas Energy Office.

(ii) The level of the energy audit in subdivision (b)(5)(B)(i) of this section shall be consistent with the condition of each public facility.

(C) When conducting an energy audit under this subdivision (b)(5), the Arkansas Energy Office shall identify and recommend any public facility that is suitable for:

(i) Building commissioning to reduce energy consumption within the facility; or

(ii) Installing an energy savings measure under a guaranteed energy savings contract.

(c) The Arkansas Energy Office may adopt architectural and engineering standards to implement this section.

(d) A public agency shall:

(1) Develop and implement, to the extent funds are available, an energy management plan to manage its energy, water, and other utility uses that is consistent with the Arkansas Energy Office's energy management program developed under this section;

(2) Update its management plan annually, including without limitation strategies for supporting the energy consumption reduction requirements under subsection (a) of this section;

(3) Submit annually by October 31 to the Arkansas Energy Office a written report of the public agency's utility consumption and costs by fuel;

(4) Carry out the construction and renovation of a facility in a manner that:

(A) Furthers the goals under this section; and

(B) Ensures the use of life-cycle cost analyses and practices to conserve energy, water, and other utilities; and

(5) Implement the Arkansas Energy Office's recommendations made under subdivision (b)(1) of this section, to the extent funds are available.

History. Acts 2009, No. 1494, § 1; 2011, No. 803, §§ 5, 6.

Amendments. The 2011 amendment added "to the extent funds are available" in the introductory language of (b); de-

leted "to the extent funds are available" at the end of (b)(5)(A); rewrote (b)(5)(B); and substituted "October 31" for "April 1" in (d)(3).

22-3-2007. Application to historic and unique buildings.

This subchapter does not apply if the implementation of a measure to conserve energy, water, or other utility use conflicts with the requirements for:

(1) A property to be eligible for, nominated to, or entered on the National Register of Historic Places under the National Historic Preservation Act of 1966, Pub. L. No. 89-665;

(2) An historic building located within an historic district;

(3) An historic building listed, owned, or under the jurisdiction of an historic properties commission; or

(4) A building that the Arkansas Energy Office has exempted from this subchapter because of its unique architectural characteristics or usage.

History. Acts 2009, No. 1494, § 1.

22-3-2008. Advisory committee for the Arkansas Energy Office of the Arkansas Economic Development Commission.

(a)(1) The Director of the Arkansas Energy Office shall create a sustainable, energy-efficient building advisory committee composed of:

(A) Representatives from the design and construction industry who are involved in public works contracting;

(B) Persons from public agencies who are responsible for overseeing public works projects or for developing energy efficiency programs and policies; and

(C) Other persons that the director considers to have useful information.

(2) Advisory committee members shall serve at the pleasure of the director.

(b) The committee shall provide advice on the implementation of this subchapter, including without limitation recommendations regarding:

(1) An education and training process for persons who are involved in the implementation of this subchapter;

(2) An ongoing evaluation or feedback process to help the Arkansas Energy Office to implement this section; and

(3) Water-deficiency requirements and energy-efficiency requirements.

History. Acts 2009, No. 1494, § 1.

22-3-2009. Rules.

(a) The Arkansas Energy Office shall:

(1) Adopt rules for the implementation of operation and maintenance energy conservation measures in a public building; and

(2) Develop or revise the Arkansas Energy Office's architectural and engineering standards to provide assistance in determining:

(A) Which energy conservation measures are best suited to the unique characteristics of each building; and

(B) The specifications for the energy conservation measures under this subchapter; and

(3) Adopt rules for the development of education and training requirements for the various personnel that may be involved in a major facility or a major renovation under this subchapter.

(b) The Arkansas Energy Office may adopt:

(1) Rules to implement this subchapter; and

(2) Architectural or engineering standards as needed to implement this section.

History. Acts 2009, No. 1494, § 1.

22-3-2010. Performance review — Report.

(a) The Arkansas Energy Office, to the extent funds are available, shall conduct a performance review of the Sustainable Energy-Efficient Buildings Program that includes at least the following:

(1) An identification of the costs of implementing energy-efficient and water-efficient building standards in the design and construction of a major facility or major renovation;

(2) An identification of the operating savings attributable to the implementation of energy-efficient and water-efficient building standards, including without limitation savings in energy, water, utility, and maintenance costs;

(3) An identification of any impact on employee productivity from the application of the standards under this subchapter; and

(4) An evaluation of the effectiveness of the application of the standards under this subchapter.

(b) No later than December 1, 2010, and each year thereafter, the Arkansas Energy Office and each institution of higher education shall report to the cochair of the Legislative Council its:

(1) Findings under subsection (a) of this section; and

(2) Recommended changes, if any.

History. Acts 2009, No. 1494, § 1.

22-3-2011. Applicability.

(a) The boards of trustees for the University of Arkansas, Arkansas State University, the University of Central Arkansas, Henderson State University, Arkansas Tech University, and Southern Arkansas University are exempt from the provisions of this subchapter if those institutions develop policies and procedures to meet the specific performance criteria and goals for a major facility or major renovation.

(b)(1) The board of trustees of any institution of higher education that is not included under subsection (a) of this section may be exempted from the provisions of this subchapter by the Department of Higher Education.

(2) Before granting an exemption to a board of trustees of an institution of higher education under subdivision (b)(1) of this section, the department shall review and approve the policies and procedures to meet the specific performance criteria and goals for a major facility or major renovation.

(c) This subchapter does not:

(1) Preclude an institution of higher education from adopting the policies and technical guidelines for a major facility or a major renovation that are established by the Arkansas Energy Office under § 22-3-2003(b)(1); or

(2) Affect the processes or exemptions under § 22-6-601.

History. Acts 2009, No. 1494, § 1.

CHAPTER 4

PARKS AND RECREATION AREAS

SUBCHAPTER.

1. GENERAL PROVISIONS.

Publisher's Notes. References to "this chapter" in §§ 22-4-101 through 22-4-111 and subchapters 1-5 may not apply to § 22-4-112 which was enacted subsequently.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

22-4-104. State Parks, Recreation, and Travel Commission — Rule-making power — Penalty.

22-4-112. Lower White River Museum State Park.

SECTION.

22-4-113. Use of certain vehicles by a person with a qualifying disability.

Publisher's Notes. References to "this subchapter" in §§ 22-4-101 through 22-4-111 may not apply to §§ 22-4-112 and 22-4-113 which were enacted subsequently.

22-4-102. Control of state parks and recreational areas.

A.C.R.C. Notes. Acts 2005, No. 1225, § 1, amended uncodified Acts 1957, No. 564, § 1 to read: "The Department of Parks and Tourism is hereby authorized to establish a state park to be known as the Hampson Archeological Museum State Park, if

"(1) Suitable land for such park, in amount and location is donated to the Department of Parks and Tourism, with-

out cost, with title to such land to be vested in fee simple in the State of Arkansas, and

"(2) The various relics, exhibits and other contents of the Hampson Memorial Museum of Archeology in Mississippi County near Wilson are donated to the Department of Parks and Tourism to be used and maintained in the Hampson Archeological Museum State Park."

22-4-104. State Parks, Recreation, and Travel Commission — Rule-making power — Penalty.

(a) The State Parks, Recreation, and Travel Commission may establish and alter rules governing the use and protection of the state parks system and the property thereon and to preserve the peace therein.

(b) A person who violates a rule established under subsection (a) of this section shall be guilty of an unclassified misdemeanor and upon conviction shall be punished by a fine of at least one hundred dollars (\$100) and not more than five hundred dollars (\$500) or imprisonment for not more than thirty (30) days, or both.

History. Acts 1937, No. 170, § 6; Pope's Dig., § 12312; A.S.A. 1947, § 9-601; Acts 2011, No. 745, § 1.

Amendments. The 2011 amendment deleted "and regulations" following "rules"

in (a); in (b), substituted "a rule" for "any rule or regulation" and "of at least" for "not exceeding," and inserted "and not more than five hundred dollars (\$500)."

22-4-106. Establishing and acquiring property for state parks — Procedure generally.

CASE NOTES

Construction.

Trial court did not err in granting summary judgment for landowner and dismissing parks department's condemnation complaint because the department failed to follow the procedures set forth in this section for acquiring park lands, such as receiving the Governor's written approval; further, Acts 2001, No. 1102, and Acts 2003, No. 1605, the acts funding the

land acquisition, were not more specific legislation that negated the procedures in this section, rather, the Acts were general appropriation provisions that provided the funding mechanisms for the department to acquire additional lands, while this section established the procedures to be followed. State ex rel. Ark. Dep't of Parks & Tourism v. Jeske, 365 Ark. 279, 229 S.W.3d 23 (2006).

22-4-112. Lower White River Museum State Park.

The Prairie County Museum State Park is renamed the Lower White River Museum State Park.

History. Acts 2005, No. 1155, § 1.

Publisher's Notes. References to "this chapter" in §§ 22-4-101 through 22-4-111 and subchapters 1-5 may not apply to this section which was enacted subsequently.

References to "this subchapter" in §§ 22-4-101 through 22-4-111 may not apply to this section which was enacted subsequently.

22-4-113. Use of certain vehicles by a person with a qualifying disability.

(a) As used in this section:

(1) "All-terrain vehicle" has the same meaning as in § 27-21-102;

(2) "Disability document" means:

(A) An Arkansas license plate beginning with the letters "DV" or "DAV";

(B) A license plate or certificate from any state showing the international symbol for drivers with disabilities and noting the word "disabled" on the license plate or certificate;

(C) An America the Beautiful Access Pass or America the Beautiful Golden Access Passport; or

(D) A disability document from the United States Social Security Administration or United States Department of Veteran Affairs establishing a determination of a mobility-based disability; and

(3) "Recreation use area" means:

(A) A campground;

(B) A day-use or picnic area; and

(C) Cabin and lodge areas.

(b)(1)(A) A person who has a disability document and a valid driver's license may operate an all-terrain vehicle or a golf cart on roads only within developed recreation use areas located within a park and recreational area under the control and management of the State Parks, Recreation, and Travel Commission.

(B) The authority to operate an all-terrain vehicle or a golf cart under subdivision (b)(1)(A) of this section includes Arkansas Highway and Transportation Department drives designated as the State Highway (S.H.) 600 series within the state parks and recreational areas.

(2) A person shall not operate an all-terrain vehicle or golf cart from one (1) recreation use area to another.

(c) An all-terrain vehicle or golf cart that is operated from one-half (½) hour after sunset and one-half (½) hour before sunrise or any other time when there is insufficient light to render clearly discernible persons at a distance of five hundred feet (500') shall have proper lights on the all-terrain vehicle or golf cart.

History. Acts 2011, No. 221, § 1.

CHAPTER 5

STATE LANDS GENERALLY

SUBCHAPTER.

8. MINERAL, TIMBER, AND OTHER RESOURCES.

SUBCHAPTER 4 — TITLE TO LANDS

22-5-401. Suits to recover state's property or quiet title.

CASE NOTES

Quiet Title.

Limited liability corporation contended that the state had no interest in property at issue, which was purchased at a tax sale, because a suit to quiet title in state property could only be commenced by the Attorney General or an assistant attorney appointed by the Governor, pursuant to

this section. While this section indicated it was the duty of the Attorney General or an assistant attorney appointed by the Governor to bring such a suit, the statute did not prohibit other attorneys from doing so. *Rylwell, L.L.C. v. Ark. Dev. Fin. Auth.*, 372 Ark. 32, 269 S.W.3d 797 (2007).

22-5-402. Tax title void when in conflict with state's interest.

CASE NOTES

Sale of State Lands.

This section did not prevent the Commissioner of State Lands from executing tax titles in favor of private individuals, as long as any interest belonging to the state remained unaffected; a limited liability

corporation and a land company who were purchasers at the tax sale were required to take subject to any prior interests in the property claimed by the state. *Rylwell, L.L.C. v. Ark. Dev. Fin. Auth.*, 372 Ark. 32, 269 S.W.3d 797 (2007).

Cited: Rylwell, L.L.C. v. Ark. Dev. Fin. Auth., 372 Ark. 32, 269 S.W.3d 797 (2007).

22-5-404. Title to lands formed in nonnavigable lakes or abandoned river channels.

CASE NOTES

Accretions to Riparian Land.

Trial court erred in granting summary judgment for landowners in accreted acreage dispute; the landowners, as riparian owners, were owners of the additional

land formed by accretion, which encompassed both surface and mineral rights. Swaim v. Stephens Prod. Co., 359 Ark. 190, 196 S.W.3d 5 (2004).

22-5-405. Deeds to lands in lakes or rivers.

RESEARCH REFERENCES

Ark. L. Rev. Recent Developments, Accretion — Oil and Gas Royalties, 57 Ark. L. Rev. 1015.

U. Ark. Little Rock L. Rev. Annual Survey of Caselaw: Property Law, 27 U. Ark. Little Rock L. Rev. 739.

CASE NOTES

Accretions to Riparian Land.

Trial court erred in granting summary judgment for landowners in accreted acreage dispute; the landowners, as riparian owners, were owners of the additional

land formed by accretion, which encompassed both surface and mineral rights. Swaim v. Stephens Prod. Co., 359 Ark. 190, 196 S.W.3d 5 (2004).

SUBCHAPTER 8 — MINERAL, TIMBER, AND OTHER RESOURCES

SECTION.

- 22-5-801. Leases and permits — Purpose of this section and §§ 22-5-802 — 22-5-813.
- 22-5-802. Leases and permits — Exemptions for state agencies.
- 22-5-803. Leases and permits — Penalties.
- 22-5-805. Leases and permits — Requirements — Application — Terms.
- 22-5-807. Leases and permits — Notice to, and recommendations from, interested agencies.

SECTION.

- 22-5-808. Leases and permits — Records — Fees — Disposition of funds.
- 22-5-809. Leases and permits — Monthly statements — Payment of severance tax.
- 22-5-810. Leases and permits — Liability — Transferability — Renewal.
- 22-5-811. Leases and permits — Existing ones to continue.

Effective Dates. Acts 2009, No. 1416, § 44: July 1, 2009. Emergency clause provided: "It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a one

(1) year period; that the effectiveness of this Act on July 1, 2009 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the

effective date of this Act beyond July 1, 2009 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby de-

clared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2009."

22-5-801. Leases and permits — Purpose of this section and §§ 22-5-802 — 22-5-813.

(a) It is the purpose and intent of this section and §§ 22-5-802 — 22-5-813 to charge the Commissioner of State Lands with the authority and responsibility for considering applications for and granting leases and permits for the taking of sand, gravel, oil, natural gas, casinghead gas, coal and other minerals, and timber or logs from the beds and bars of navigable rivers and lakes in this state or from any other lands or interests in lands held in the name of the State of Arkansas or any state agency or institution, excluding tax-forfeited lands and minerals, and to supervise activities on state-owned lands by leaseholders and permittees.

(b) As used in this subchapter, "log" means a bulky piece or length of unshaped timber, a length of a tree trunk ready for sawing, or a portion of the trunk of a felled tree that is sunk on the bed of submerged land owned by the State of Arkansas.

History. Acts 1975, No. 524, § 13; A.S.A. 1947, § 10-1026; Acts 1993, No. 509, § 1; 2005, No. 786, § 1.

22-5-802. Leases and permits — Exemptions for state agencies.

(a) The provisions of this section and §§ 22-5-801 and 22-5-803 — 22-5-813 shall not be applicable to the severance, sale, or other disposition of sand, gravel, timber or logs, or minerals salvaged, severed, or removed by a state agency from lands held in the name of or managed by the agency if the sand, gravel, timber or logs, or minerals are salvaged, severed, or removed in the course of managing, developing, and improving the lands by the state agency. This exemption shall not apply to sales for commercial purposes.

(b) Any state agency, department, or institution or any county, municipality, or other division of government desiring to sever or take any sand, gravel, timber or logs, or minerals from any lands held in the name of or managed by the state or a state agency or from the beds and bars of rivers in this state, other than lands held in the name of or managed by the agency or division of government so desiring, shall obtain a permit to do so from the Commissioner of State Lands but shall not be required to comply with the bid procedures contained in §§ 22-5-801, this section, and 22-5-803 — 22-5-813 or to pay any fee, royalty, or taxes otherwise required by §§ 22-5-801, this section, and 22-5-803 — 22-5-813.

(c) The provisions of this section and §§ 22-5-801 and 22-5-803 — 22-5-813 relating to the authority to lease and permit lands held in the name of or managed by the Arkansas State Game and Fish Commission shall not be applicable to the lands of that agency. The commission shall retain control over the procedures for awarding and shall retain the authority over the issuance of leases for the mineral rights and of permits for the rights to produce and sever minerals from lands held in its name or managed by it. Provided, that the commission shall use the same requirements, procedures, standards, and methods required under §§ 22-5-801, this section, and 22-5-803 — 22-5-813 for other state agencies to lease mineral rights and to issue permits to produce and sever minerals.

History. Acts 1975, No. 524, §§ 11, 12; 1024, 10-1025; Acts 1991, No. 537, § 1; 1981, No. 684, §§ 8, 9; A.S.A. 1947, §§ 10- 1993, No. 509, § 1; 2005, No. 786, § 2.

22-5-803. Leases and permits — Penalties.

(a)(1) If any person, firm, company, corporation, or association shall remove any sand, gravel, oil, natural gas, casinghead gas, coal or other minerals, or any timber or logs from the beds or bars of navigable rivers and lakes in this state or from any other lands or interest in lands held in the name of the State of Arkansas without first obtaining a lease or permit to do so from the Commissioner of State Lands, that person, firm, company, or corporation shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than three hundred dollars (\$300) and not more than one thousand dollars (\$1,000).

(2) Each day of unauthorized taking shall constitute a separate offense.

(b) In addition to the fine mentioned in subsection (a) of this section, the State of Arkansas may bring suit in the name of the state to recover the value of the sand, gravel, oil, natural gas, casinghead gas, coal or other minerals, or timber or logs which have been illegally removed, as well as all severance taxes and royalties due as a result of the removal.

History. Acts 1975, No. 524, § 9; A.S.A. 1947, § 10-1022; Acts 1993, No. 509, § 1; 2005, No. 786, § 3.

22-5-805. Leases and permits — Requirements — Application — Terms.

(a) No person, firm, company, corporation, or association shall take any sand, gravel, oil, natural gas, casinghead gas, coal or other minerals, or sever any timber or logs from the beds or bars of navigable rivers and lakes in this state or from any other lands or interest in lands held in the name of the State of Arkansas or any agency, department, or institution of the state, excluding tax-forfeited lands and minerals,

unless that person has first procured a lease or permit to do so from the Commissioner of State Lands.

(b)(1) Any person, firm, company, corporation, or association desiring to take sand, gravel, oil, natural gas, casinghead gas, coal or other minerals, or to sever any timber or logs from state-owned lands shall make application for a lease or permit to do so to the Commissioner of State Lands.

(2) Each application shall be on forms prescribed by the Commissioner of State Lands and shall contain such information as shall be prescribed by the Commissioner of State Lands regarding the applicant and the business of the applicant, the sand, gravel, minerals, or timber or logs proposed to be removed from the lands under the lease or permit, and any other information as the Commissioner of State Lands shall deem necessary and appropriate to properly protect the interest of the state and to assure that the leaseholder will in good faith carry out all his or her responsibilities under the lease or permit.

(c)(1) Every lease or permit issued under the provisions of this section and §§ 22-5-801 — 22-5-804 and 22-5-806 — 22-5-813 shall define the limit of the area from which the lessee or permittee shall be permitted the exclusive right to take the sand, gravel, minerals, or timber or logs designated in the lease or permit.

(2) Each lease or permit issued by the Commissioner of State Lands under the provisions of this section and §§ 22-5-801 — 22-5-804 and 22-5-806 — 22-5-813 shall be for a specific term as may be determined by the Commissioner of State Lands; shall require that reasonable commercial production of the sand, gravel, mineral, or timber or logs covered by the lease or permit shall commence within a specified period of time as determined by the Commissioner of State Lands; and shall provide that the lease or permit shall automatically terminate unless commercial production is commenced within the time prescribed unless the time is extended by the Commissioner of State Lands upon a showing that expenses have been incurred and actual operations are in the process of completion for the commercial production of the oil, natural gas, casinghead gas, sand, gravel, coal or other minerals, or the severance of timber or logs under the lease or permit.

(d) Once reasonable commercial production is commenced under any lease or permit issued under this section and §§ 22-5-801 — 22-5-804 and 22-5-806 — 22-5-813, the lease or permit shall automatically terminate if commercial production is discontinued for a period of six (6) months or such other period as may be prescribed in the lease.

History. Acts 1975, No. 524, § 1; A.S.A. 1947, § 10-1014; Acts 1993, No. 509, § 1; 2005, No. 786, § 4.

22-5-807. Leases and permits — Notice to, and recommendations from, interested agencies.

(a) When an application for a lease or permit is filed with the Commissioner of State Lands for the taking or production of any sand, gravel, oil, natural gas, casinghead gas, coal, or other minerals or the severance of any timber or logs from state-owned lands, the Commissioner of State Lands shall so notify the Arkansas Geological Survey, the Arkansas Natural Resources Commission, the Oil and Gas Commission, the Arkansas State Game and Fish Commission, the Department of Parks and Tourism, the Arkansas Department of Environmental Quality, the Arkansas Forestry Commission, and any other appropriate state agency that has or may have a particular interest in the area proposed to be covered by the lease or permit.

(b) Any interested agency shall have an opportunity to investigate the proposed production or taking of sand, gravel, or minerals or the severance of timber or logs under the lease or permit and to report its findings and recommendations to the Commissioner of State Lands, including any recommendations for conditions or limitations to be imposed on the lessee or permittee with respect to the production of sand, gravel, minerals, or the severance of timber or logs under the lease or permit, within the time specified in the notice.

(c) The Commissioner of State Lands may deny an application or may grant a permit or lease subject to such conditions and requirements as he or she deems appropriate to properly protect the interests of the State of Arkansas.

(d) No permit or lease shall be granted on interests held in the name of or managed by a state agency or institution without the written consent of the agency or institution.

(e) The issuance of a permit or lease shall not be unreasonably delayed or denied without justifiable cause.

History. Acts 1975, No. 524, § 3; 1981, 1993, No. 509, § 1; 1999, No. 1164, § 178; No. 684, § 2; A.S.A. 1947, § 10-1016; Acts 2005, No. 786, § 5.

22-5-808. Leases and permits — Records — Fees — Disposition of funds.

(a) The office of the Commissioner of State Lands shall maintain a permanent record of all leases and permits issued under this section and §§ 22-5-801 — 22-5-807 and 22-5-809 — 22-5-813.

(b)(1) The person, firm, company, corporation, or association making application or filing a competitive bid for a lease or permit with the State of Arkansas shall pay a fee to cover the cost of processing its application.

(2) The amount of the fee shall be set by the Commissioner of State Lands and shall be deposited as cash funds as defined by § 19-4-801.

(c) The funds shall be used to pay for the advertising, processing, and recording of applications received.

History. Acts 1975, No. 524, § 4; 1977, No. 572, § 2; 1981, No. 684, § 3; A.S.A. 1947, § 10-1017; Acts 1993, No. 509, § 1; 2009, No. 610, § 8.

substituted "as cash funds as defined by § 19-4-801" for "in the State Treasury as cash funds and credited to the Severed Resources Fund" in (b)(2); and deleted (c)(2).

Amendments. The 2009 amendment

22-5-809. Leases and permits — Monthly statements — Payment of severance tax.

(a)(1) Every person obtaining a lease or permit under this section and §§ 22-5-801 — 22-5-808 and 22-5-810 — 22-5-813 shall keep an accurate record and account of all sand, gravel, oil, natural gas, casinghead gas, coal and other minerals taken, and all timber or logs severed from the land covered by the lease or permit and shall file with the Revenue Division of the Department of Finance and Administration monthly an itemized verified statement of the total conventional weight or volume of any and all minerals and timber or logs taken under the lease or permit during the preceding month. These reports shall be made on forms prescribed by the division.

(2) Every person obtaining a lease or permit under this section and §§ 22-5-801 — 22-5-808 and 22-5-810 — 22-5-813 shall keep an accurate record and account of all sand, gravel, oil, natural gas, casinghead gas, coal and other minerals taken, and all timber or logs severed from the land covered by the lease or permit and shall file with the Commissioner of State Lands monthly an itemized verified statement of the total number of tons of sand and gravel, barrels of oil, thousands of cubic feet of natural gas and casinghead gas, tons of coal, and the conventional weight or volume of any and all other minerals and timber or logs taken under the lease or permit during the preceding month. These reports shall be made on forms prescribed by the Commissioner of State Lands.

(b)(1) At the time of filing the reports, the lessee or permittee shall pay the severance tax to the Department of Finance and Administration in the same manner and at the same rate as all other severance taxes collected by the division.

(2) The lessee or permittee shall also pay monthly to the Commissioner of State Lands royalties on the amount of actual consideration for the sand, gravel, minerals, or timber or logs taken or severed from the state-owned lands under the conditions of the lease or permit issued by the Commissioner of State Lands.

(3) The Commissioner of State Lands shall be further authorized to require the posting of a corporate surety bond by any lessee or permittee to guarantee the payment of the taxes, royalties, and consideration.

(c)(1) Except for application and bid fees, all funds received by the Commissioner of State Lands as fees, compensation, or royalties for leases or permits issued for the taking of any sand, gravel, minerals, or timber for lands owned or held in the name of a state agency shall be special revenues and shall be deposited into the State Treasury and

credited to the fund or account from which the agency receives its support and for lands owned or held in the name of a state institution of higher education shall be deposited into the State Treasury and transferred by warrant to the institution of higher education for deposit into the institution's cash fund account established outside the State Treasury.

(2) Except for application and bid fees, all funds received by the Commissioner of State Lands for leases or permits for the taking of any sand, gravel, minerals, or timber from all other state-owned lands shall be deposited into the State Treasury as general revenues.

(3) Except for application and bid fees derived from the removal of logs, all funds received by the Commissioner of State Lands for leases or permits for the taking of logs from lands owned or held in the name of the state shall be deposited as cash funds into the State Treasury for the State Land Department. The Commissioner of State Lands shall distribute cash revenues deposited into the State Treasury for the State Land Department to counties from which logs were removed in accordance with the value of the logs as determined by the Commissioner of State Lands.

(4) All funds received by the Arkansas State Game and Fish Commission as fees, compensation, or royalties, including any application or bid fees, for leases or permits issued for the taking of any minerals for lands held in the name of the commission shall be special revenues and shall be deposited into the State Treasury and credited to the Game Protection Fund for the use of the commission.

History. Acts 1975, No. 524, § 5; 1981, No. 684, § 4; A.S.A. 1947, § 10-1018; Acts 1991, No. 537, § 3; 1993, No. 509, § 1; 2005, No. 786, § 6; 2009, No. 1416, § 41.

Amendments. The 2009 amendment, in (c)(1), deleted "or institution" following "agency" twice, and added "and for lands owned ... outside the State Treasury."

CASE NOTES

Funds.

The Arkansas Game and Fish Commission was authorized under Ark. Const. Amend. 35 and subdivision (c)(4) of this section and § 22-5-812(c) to enter into gas

leases with private companies and to deposit the revenue into the Game Protection Fund. Gas leases fall within the ambit of Ark. Const. Amend 35. *Dockery v. Morgan*, 2011 Ark. 94, — S.W.3d — (2011).

22-5-810. Leases and permits — Liability — Transferability — Renewal.

(a) Each person, firm, company, corporation, association, or other business entity holding a lease or permit for the taking or production of any sand, gravel, timber or logs, minerals, or other natural resources shall be absolutely liable for all severance taxes, royalties, and actual consideration for all the sand, gravel, or minerals produced or timber or logs severed under the lease or permit regardless of whether the lessee or permittee is actually producing or severing the minerals or timber or logs from the land.

(b)(1) All leases issued under the authority of this section and §§ 22-5-801 — 22-5-809 and 22-5-811 — 22-5-813 shall be transferable only with the approval of the Commissioner of State Lands.

(2) Any lease transferred in violation of subdivision (b)(1) of this section shall be subject to cancellation by the Commissioner of State Lands.

(3) All permits issued under the authority of this section and §§ 22-5-801 — 22-5-809 and 22-5-811 — 22-5-813 shall not be transferable.

(c) Upon the expiration of any lease or permit issued under the authority of this section and §§ 22-5-801 — 22-5-809 and 22-5-811 — 22-5-813, the lease or permit shall not be renewed or reissued.

History. Acts 1975, No. 524, § 7; 1981, No. 684, § 5; A.S.A. 1947, § 10-1020; Acts 1993, No. 509, § 1; 2005, No. 786, § 7.

22-5-811. Leases and permits — Existing ones to continue.

Any person, firm, company, corporation, state agency, or other business entity holding a lease or permit on March 21, 1975, for the taking or production of any sand, gravel, minerals, or timber or logs from state-owned lands shall be permitted to continue to take or produce sand, gravel, minerals, or timber or logs from state-owned lands in accordance with the existing lease or permit.

History. Acts 1975, No. 524, § 8; 1981, No. 684, § 6; A.S.A. 1947, § 10-1021; Acts 2005, No. 786, § 8.

22-5-812. Leases and permits — Rules and regulations.

CASE NOTES

Mineral Rights.

The Arkansas Game and Fish Commission was authorized under Ark. Const. Amend. 35 and § 22-5-809(c)(4) and subsection (c) of this section to enter into gas

leases with private companies and to deposit the revenue into the Game Protection Fund. Gas leases fall within the ambit of Ark. Const. Amend 35. *Dockery v. Morgan*, 2011 Ark. 94, — S.W.3d — (2011).

CHAPTER 6

SALE OR OTHER DISPOSITION OF STATE LANDS

SUBCHAPTER

5. TAX-FORFEITED LANDS.

SUBCHAPTER 1 — GENERAL PROVISIONS

22-6-109. Cancellation of deed upon dishonor of check.

CASE NOTES

Bona Fide Purchasers.

Party claiming bona fide purchaser status is not obliged to make inquiry into the circumstances surrounding the legal legitimacy of a cancellation deed or redemp-

tion deed issued by the Arkansas Land Commissioner. *Bill's Printing, Inc. v. Carder*, 357 Ark. 242, 161 S.W.3d 803 (2004).

SUBCHAPTER 2 — ISLANDS

22-6-201. Purpose.

CASE NOTES

Adverse Possession.

Hunting and fishing club did not consent to submerging its accreted island, and the state did acquire title to the island by adverse possession for the public trust and the public's use; an artificial high water mark had been established, and the

submerged island had become part of the river bed and thus the property of the state. *State v. Hatchie Coon Hunting & Fishing Club, Inc.*, 372 Ark. 547, 279 S.W.3d 56 (2008), rehearing denied, — Ark. —, — S.W.3d —, 2008 Ark. LEXIS 217 (Apr. 10, 2008).

22-6-202. Property of state.

CASE NOTES

Submerged Land.

Hunting and fishing club did not consent to submerging its accreted island, and the state did acquire title to the island by adverse possession for the public trust and the public's use; an artificial high water mark had been established, and the

submerged island had become part of the river bed and thus the property of the state. *State v. Hatchie Coon Hunting & Fishing Club, Inc.*, 372 Ark. 547, 279 S.W.3d 56 (2008), rehearing denied, — Ark. —, — S.W.3d —, 2008 Ark. LEXIS 217 (Apr. 10, 2008).

SUBCHAPTER 5 — TAX-FORFEITED LANDS

SECTION.

22-6-501. Transfer to state institutions.

22-6-501. Transfer to state institutions.

(a)(1) The Commissioner of State Lands is authorized upon application of the director of any state department or agency, the management or the board of trustees of any state institution, or the chief executive of any county, city, or school district of this state to issue to the applying governmental unit a deed for land listed on the Commissioner of State Lands' records as having been forfeited for the nonpayment of taxes.

(2) The application shall include the following:

(A) The proposed use of the land;

(B) The proposed duration for the stated use; and

(C) The division or department designated for the maintenance and operation of the property once deeded. Moreover, the Commissioner of State Lands is authorized to accept the application as submitted or recommend modifications to the application. The Commissioner of State Lands is further empowered to disallow any application determined by the Commissioner of State Lands to be contrary to the best interests of the health and general welfare of the state and its citizens.

(b)(1) The deed issued by the Commissioner of State Lands to a state department or agency, state institution, city, county, or school district may contain restrictive covenants or reservations stating that should the governmental unit no longer desire to use the land for the proposed use stated in the application, said governmental unit shall submit a subsequent letter of application to the Commissioner of State Lands to request change in the use of the property, and the Commissioner of State Lands shall accept, modify, or disallow the request.

(2) Moreover, should the governmental unit determine that the property can no longer be utilized, the property shall revert to the state, be held by the Commissioner of State Lands, and be treated as tax-forfeited land subject to the powers and authority of the Commissioner of State Lands.

(3) Because this section applies to the disposition of tax-forfeited land, § 22-6-601 shall not apply herewith.

(c) No consideration shall be required for the transfer except the fee of one dollar (\$1.00) as required by law.

(d)(1) All deeds granted by the Commissioner of State Lands prior to the passage of this section are confirmed, and the title of all purchases under the deeds from the Commissioner of State Lands are quieted, established, and confirmed.

(2) Collection of any outstanding ad valorem property tax indebtedness shall be stayed by the Commissioner of State Lands while title to the property remains with the governmental unit.

(3) Should the property revert to the state pursuant to subsection (b) of this section, the property may be sold as prescribed by the Commissioner of State Lands.

(e)(1) Land donated by the Commissioner of State Lands under this section may be used for any lawful purpose or transferred pursuant to any lawful authority of the city or town.

(2) Owners of property donated to a city or town under this section shall not have any right to retain any of the appraised value of the property.

(f) Prior to conveyance of property, the Commissioner of State Lands may give consideration to the following issues:

(1) Whether the prospective purchaser has a pattern or practice of not paying fines resulting from a citation for violation of state laws or regulations or local codes and ordinances;

(2) Whether the prospective purchaser has a pattern or practice of not timely paying property taxes; and

(3) Whether the prospective purchaser was the prior owner of real property that was transferred to the Commissioner of State Lands as a result of tax delinquency during the preceding three (3) years.

History. Acts 1939, No. 156, § 1; A.S.A. 1947, § 10-904; Acts 1991, No. 807, § 3; 2007, No. 1036, §§ 1, 2.

Amendments. The 2007 amendment substituted “may contain” for “shall contain” in (b)(1); and added (e) and (f).

SUBCHAPTER 6 — LANDS OF STATE INSTITUTIONS

A.C.R.C. Notes. Acts 2009, No. 1381, § 23, provided: “SELL, LEASE, RENT, CONVEY OR ENCUMBER RAY WINDER FIELD. In no event shall the Department of Human Services, or any of its governing boards, sell, lease, rent, convey or encumber the land and facilities of Ray Winder Field in Little Rock, Arkansas without the prior review and approval of the Arkansas Legislative Council or Joint Budget Committee.”

Acts 2010, No. 242, § 19, provided: “SELL, LEASE, RENT, CONVEY OR ENCUMBER RAY WINDER FIELD. In no event shall the Department of Human Services, or any of its governing boards, sell, lease, rent, convey or encumber the land and facilities of Ray Winder Field in Little Rock, Arkansas without the prior review and approval of the Arkansas Legislative Council or Joint Budget Committee.”

CHAPTER 8

MOTOR VEHICLES

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. AUTOMOBILE AND PICKUP TRUCK ACQUISITION.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

22-8-105. Global positioning devices on

certain state-owned vehicles.

22-8-105. Global positioning devices on certain state-owned vehicles.

(a) As used in this section, “global positioning device” means a device that can access a global navigation satellite system or that uses radio frequency information technology and provides reliable location and time information and is capable of recording the travel and location of a vehicle.

(b)(1) A global positioning device may be installed on a state-owned vehicle.

(2) Each state agency, board, or commission may keep records of its vehicles’ travels and locations as recorded by the global positioning device.

(c)(1) The records kept by a state agency, board, or commission under this section are subject to disclosure under the Freedom of Information Act of 1967, § 25-19-101 et seq.

(2) However, disclosure shall not be made for the travels or locations of any state-owned vehicle under this section until thirty (30) days have

elapsed after the travel or after the state-owned vehicle was at the location.

(d) The records kept by a state agency, board, or commission under this section are subject to audit by the Division of Legislative Audit and shall be kept for at least five (5) years.

(e) Each state agency, board, or commission that uses global positioning devices on its vehicles may promulgate rules for the implementation and administration of this section.

History. Acts 2011, No. 1161, § 1.

SUBCHAPTER 2 — AUTOMOBILE AND PICKUP TRUCK ACQUISITION

SECTION.

22-8-206. Purchase of automobiles.

22-8-206. Purchase of automobiles.

(a) The Director of the Department of Finance and Administration shall purchase vehicles for state agencies from moneys as appropriated and made available by the General Assembly.

(b) There is created and established upon the financial records of the Department of Finance and Administration, the Treasurer of State, and the Auditor of State a fund to be known as the "Motor Vehicle Acquisition Revolving Fund", which shall be used for the purpose of acquiring motor vehicles as authorized by this subchapter.

(c)(1) The Motor Vehicle Acquisition Revolving Fund shall be financed by its proportionate share of moneys made available from:

(A) The allocation of general revenues as authorized by the Revenue Stabilization Law, § 19-5-101 et seq.;

(B) Moneys made available upon the disposal of used vehicles, which moneys shall be deposited to the credit of the Motor Vehicle Acquisition Revolving Fund rather than being deposited to the owning state agency's fund;

(C) Deposits of moneys from benefitting state agencies; and

(D) Transfers from other State Treasury funds and fund accounts of benefitting state agencies.

(2) Upon approval by the Chief Fiscal Officer of the State, the appropriation and funds shall be transferred from the Motor Vehicle Acquisition Revolving Fund to the designated appropriation and fund of the state agency.

(d)(1) In the event that the director determines that any state agency, as defined by § 22-8-203(4), has sufficient funding from sources other than general revenues that may be used to purchase vehicles requested by the agency, he or she shall transfer on his or her books and on the books of the Auditor of State and the Treasurer of State an amount equal to the price of the vehicles from the fund from which the funding is available to the Motor Vehicle Acquisition Revolving Fund.

(2) Upon approval by the Chief Fiscal Officer of the State, the Motor Vehicle Acquisition Revolving Fund appropriation shall be transferred

from the Motor Vehicle Acquisition Revolving Fund to the designated appropriation of the state agency.

(3) In the event that the funds are held in depositories other than the State Treasury, the administrative head of the affected state agency shall issue a check drawn against the funds, which shall be deposited into the Motor Vehicle Acquisition Revolving Fund as a nonrevenue receipt.

(e) After seeking the advice of the Legislative Council, in order to effectuate the intent and purposes of this subchapter, the Chief Fiscal Officer of the State shall have the authority to transfer:

(1) Appropriations from the Property Sales Holding Fund to the Motor Vehicle Acquisition Revolving Fund; and

(2) Appropriations or funds from the Motor Vehicle Acquisition Revolving Fund to the designated state agency appropriation and fund from which the payment for the purchase of vehicles is to be made.

(f) The Department of Human Services is hereby exempt from this section insofar as federal funds and state general revenues necessary to match the federal funds may be transferred to the Motor Vehicle Acquisition Revolving Fund when the Director of the Department of Finance and Administration has determined that the Department of Human Services has sufficient funding that may be used to purchase requested vehicles.

History. Acts 1983, No. 493, §§ 6, 8, 10-12; A.S.A. 1947, §§ 14-533, 14-535, 14-537 — 14-539; Acts 1989 (1st Ex. Sess.), No. 68, § 23; 2003, No. 656, § 9; 2005, No. 1180, § 1.

A.C.R.C. Notes. Acts 2011, No. 1104, § 16, provided: "MOTOR VEHICLE ACQUISITION REVOLVING FUND — MOTOR VEHICLE PURCHASES/RENOVATION. At least fifty percent (50%) of the

general revenues and/or general improvement funds deposited into the Motor Vehicle Acquisition Revolving Fund shall be used for motor vehicle purchases and/or motor vehicle renovation costs for the Department of Arkansas State Police.

"The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012."

CHAPTER 9

PUBLIC WORKS

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. AWARD OF CONTRACTS.
4. CONTRACTORS' BONDS.
6. RETAINAGE.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

22-9-101. Observation by registered professionals required.

22-9-101. Observation by registered professionals required.

(a) The state or a township, county, municipality, village, or other political subdivision of the state shall not engage in the capital improvement of public works involving engineering or architecture for which the plans, specifications, and estimates have not been made by and the capital improvement executed under the observation of a professional engineer as defined in § 17-30-101 or architect as defined in § 17-15-102, in their respective areas of expertise.

(b) Nothing in this section shall be held to apply to any public works wherein the contemplated capital improvement expenditure:

(1) For an engineering project does not exceed twenty-five thousand dollars (\$25,000); or

(2) For an architectural project does not exceed one hundred thousand dollars (\$100,000).

(c) This section shall not apply to any school district, county, municipality, or township project that is planned and executed according to plans and specifications furnished by authorized state agencies.

History. Acts 1939, No. 335, §§ 1, 2; 1985, No. 321, § 1; A.S.A. 1947, §§ 14-601, 14-602; Acts 1993, No. 284, § 1; 1995, No. 1108, § 3; 2007, No. 471, § 1; 2011, No. 897, § 16.

Amendments. The 2007 amendment substituted "capital improvement" for "construction" throughout the section.

The 2011 amendment, in (a), substituted "a professional engineer as defined

in § 17-30-101 or architect as defined in § 17-15-102" for "a registered professional engineer or architect" and deleted "who are licensed to practice under the laws of Arkansas" following "areas of expertise."

Cross References. Projects exceeding two million dollars, § 14-58-1001.

22-9-103. Authorization for state agency to commit cash funds for construction — Penalty.

Cross References. Projects exceeding two million dollars, § 14-58-1001.

22-9-104. Proposed capital expenditures.

Cross References. Projects exceeding two million dollars, § 14-58-1001.

SUBCHAPTER 2 — AWARD OF CONTRACTS**SECTION.**

22-9-201. Applicability of §§ 22-9-202 — 22-9-204.

22-9-202. Construction of this section and §§ 22-9-203 and 22-9-204.

22-9-203. Public improvements generally — Award procedure.

SECTION.

22-9-204. Subcontractors exceeding \$20,000 — Penalty.

22-9-214. Hold harmless clause in public construction contracts unenforceable.

Effective Dates. Acts 2005, No. 859, § 5: Mar. 15, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that requirements in plans and specifications which require bidders and suppliers to hold membership in certain professional organizations limit the number of eligible bidders and suppliers for projects; that by requiring bidders and suppliers to hold membership in professional organizations, an entity may increase the possibility of certain bidders and suppliers receiving projects, which is an inequitable outcome; and that the state

of Arkansas and its citizens will benefit from enhanced competition for bidders and suppliers on public construction projects. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

22-9-201. Applicability of §§ 22-9-202 — 22-9-204.

(a) The provisions of §§ 22-9-202 — 22-9-204 shall not apply to contracts awarded by the State Highway Commission for construction or maintenance of public highways, roads, or streets under the provisions of §§ 27-67-206 and 27-67-207.

(b) The provisions of § 22-9-204 shall not apply to projects designed to provide utility needs of the state or any agency thereof, a municipality, or a county. Those projects shall include, but shall not be limited to, pipeline installation, sanitary projects, light earth work and foundation work, local flood control, sanitary landfills, drainage projects, site clearing, water lines, streets, roads, alleys, sidewalks, water channelization, light construction sewage, water works, and improvements to street and highway construction.

(c)(1)(A) The notice and bid security provisions of §§ 19-4-1401, 19-4-1405, and 22-9-203 pertaining to the project amount and the time frames of the advertisement shall not apply to contracts for the performance of any work or the making of any capital improvements due to emergency contracting procedures.

(B) Nothing shall prohibit the contracting authority from requiring a bid security if the contracting authority determines to require a bid security.

(2)(A) The percentage requirements of § 22-9-203(e) shall not apply to contracts for the performance of any work or the making of any capital improvements due to emergency contracting procedures.

(B) If negotiations are unsuccessful and the contracting authority determines further negotiations with the lowest responsible bidder are not in the contracting authority's best interests, nothing shall prohibit the contracting authority from terminating negotiations and negotiating the award of the contract to the next lowest responsible bidder.

(3) "Emergency contracting procedures" means the acquisition of services and materials for capital improvements, including without

limitation acquisitions funded in whole or in part with insurance proceeds, that are in accordance with the Arkansas Building Authority minimum standards and criteria.

(4) Emergency contracting procedures may include sole sourcing or competitive quote bids.

(5) The Director of the Arkansas Building Authority or a designee may make or authorize others to make emergency contracting procedures as defined in subdivision (c)(3) of this section and in accordance with the authority minimum standards and criteria.

History. Acts 1949, No. 159, § 5; 1977, No. 370, § 2; A.S.A. 1947, § 14-614n; Acts 1999, No. 776, § 2; 2001, No. 162, § 1; 2007, No. 471, § 2; 2011, No. 782, § 1.

Amendments. The 2007 amendment, in (c)(1), added the (A) designation, inserted "bid security" in (A), and added (B);

and in (c)(2), added the (A) designation, inserted "percentage" in (A), and added (B).

The 2011 amendment inserted "including without limitation acquisitions funded in whole or in part with insurance proceeds" in (c)(3).

22-9-202. Construction of this section and §§ 22-9-203 and 22-9-204.

(a) It is the intent of this section and §§ 22-9-203 and 22-9-204 to provide a uniform procedure to be followed by a taxing unit when work is to be done under formal contract.

(b) This section and §§ 22-9-203 and 22-9-204 do not:

(1) Prevent a taxing unit from performing any of the work or making any of the improvements referred to in this section and §§ 22-9-203 and 22-9-204 by the use of its own employees; or

(2) Require that bids must be received from contractors as a condition precedent to the right to use the taxing unit's own employees.

(c) This section and §§ 22-9-203 and 22-9-204 do not amend or repeal any law that requires the publication of notice in those instances in which the estimated amount of the cost of the proposed improvements is less than twenty thousand dollars (\$20,000).

History. Acts 1949, No. 159, § 4; A.S.A. 1947, § 14-614; Acts 2011, No. 618, § 1.

Amendments. The 2011 amendment rewrote the section.

22-9-203. Public improvements generally — Award procedure.

(a) No contract providing for the making of major repairs or alterations, for the erection of buildings or other structures, or for making other permanent improvements shall be entered into by the state or any agency thereof, any county, municipality, school district, or other local taxing unit with any contractor in instances where all estimated costs of the work shall exceed the sum of twenty thousand dollars (\$20,000) unless:

(1) The state or any agency of the state shall have first published notice of its intention to receive bids one (1) time each week for not less than two (2) consecutive weeks for projects more than the amount of fifty thousand dollars (\$50,000) and published notice of its intention to

receive bids one (1) time each week for not less than one (1) week for projects more than the quote bid limit, as provided under the Arkansas Building Authority minimum standards and criteria, but less than or equal to fifty thousand dollars (\$50,000) in a newspaper of general circulation published in the county in which the proposed improvements are to be made or in a trade journal reaching the construction industry; and

(2) Any county, municipality, school district, or other local taxing unit shall have first published notice of its intention to receive bids one (1) time each week for not less than two (2) consecutive weeks in a newspaper of general circulation published in the county in which the proposed improvements are to be made or in a trade journal reaching the construction industry.

(b)(1) The date of publication of the last notice shall be not less than one (1) week before the day fixed therein for the receipt of bids.

(2) If there is no newspaper regularly published in the county in which the proposed work is to be done, the notices may be published in any newspaper having a general circulation in the county.

(3) Nothing in this section shall be construed as limiting to two (2) the number of weeks the notices may be published for projects over the amount of fifty thousand dollars (\$50,000), limiting to one (1) the number of weeks the notices may be published for projects more than the quote bid limit, as provided under subsection (a) of this section, and less than or equal to fifty thousand dollars (\$50,000), and as limiting to two (2) the number of weeks the notices may be published for all other projects.

(c)(1) All notices shall contain:

(A) A brief description of the kind or type of work contemplated;

(B) The approximate location thereof;

(C) The place at which prospective bidders may obtain plans and specifications;

(D) The date, time, and place at which sealed bids will be received;

(E) The amount, which may be stated in a percentage, of the bid bond required;

(F) A statement of the taxing unit's reservation of the right to reject any or all bids and to waive any formalities; and

(G) Such other pertinent facts or information which to it may appear necessary or desirable.

(2)(A)(i) Every bid submitted on public construction contracts for any political subdivision of the state shall be void unless accompanied by a cashier's check drawn upon a bank or trust company doing business in this state or by a corporate bid bond.

(ii) Every bid submitted on public construction contracts for the state or any agency or department of the state shall be void unless accompanied by a cashier's check drawn upon a bank or trust company doing business in this state or by a corporate bid bond, except for projects under twenty thousand dollars (\$20,000).

(iii) No bid bond shall be required for public construction contracts for the state or any agency or department of the state under or equal to twenty thousand dollars (\$20,000).

(B) This bid security shall indemnify the public against failure of the contractor to execute and deliver the contract and necessary bonds for faithful performance of the contract.

(C) The bid security shall provide that the contractor or surety must pay the damage, loss, cost, and expense subject to the amount of the bid security directly arising out of the contractor's default in failing to execute and deliver the contract and bonds.

(D) Liability under this bid security shall be limited to five percent (5%) of the amount of the bid.

(d) On the date and time fixed in the notice, the board, commission, officer, or other authority in which or in whom authority is vested to award contracts shall open and compare the bids and thereafter award the contract to the lowest responsible bidder but only if it is the opinion of the authority that the best interests of the taxing unit would be served thereby.

(e) In the event that all bids submitted exceed the amount appropriated for the award of the contract, the state agency or its designated representatives shall have the authority to negotiate an award with the apparent responsible low bidder but only if the low bid is within twenty-five percent (25%) of the amount appropriated.

(f)(1) In the event that all bids submitted exceed the amount appropriated for the award of the contract and if bidding on alternates was not required by the plans and specifications, the county, municipality, school district, other local taxing unit, or institution of higher education shall have the authority to negotiate an award with the apparent responsible low bidder but only if the low bid is within twenty-five percent (25%) of the amount appropriated.

(2) If the plans and specifications for the project require bids on alternates in addition to a base bid, there shall be no more than three (3) alternates, and the alternates shall:

(A) Be deductive; and

(B) Be set forth in the plans and specifications in numerical order.

(3) If all bids submitted exceed the amount appropriated for the award of the contract, then the county, municipality, school district, other local taxing unit, or institution of higher education may determine the apparent responsible low bidder by deducting the alternates in numerical order.

(4) After making the deductions, if the cost of the project is less than twenty-five percent (25%) above the amount appropriated, then and only in that event, the county, municipality, school district, other local taxing unit, or institution of higher education may negotiate an award with the low bidder so determined.

(g) Whenever it is obvious from examination of the bid document that it was the intent of a bidder to submit a responsive bid and that the bid, if accepted, would create a serious financial loss to the bidder

because of scrivener error, such as the transposition of figures, the board, commission, officer, or other authority in which or in whom authority is vested has the authority to relieve the bidder from responsibility under the bond and may reject the bid.

(h) For projects of this state or any agency of the state, "amount appropriated" within this section means funds currently available for the project as determined by the state or any agency or department of the state or any county, municipality, school district, or other local taxing unit prior to the opening of any bids.

(i) No contract providing for the making of major repairs or alterations, for the erection of buildings or other structures, or for making other permanent improvements shall be entered into by the state, any agency of the state, any county, municipality, school district, or other local taxing unit with any contractor in instances where all estimated costs of the work shall exceed the sum of seventy-five thousand dollars (\$75,000) unless the bid documents contain statements which encourage the participation of small, minority, and women's business enterprises.

(j)(1) Notwithstanding any other provision of law to the contrary, any municipality or sanitation authority may enter into contracts with private persons, firms, associations, corporations, joint ventures, or other legal entities, including a combination of any of those entities, to provide for the design, building, operation, and maintenance of all or any portion of its wastewater treatment system, storm water treatment system, or water treatment system, or any combination of those systems.

(2) The contracts may include provisions for the design, financing, construction, repair, reconditioning, replacement, operation, and maintenance of the system, or any combination of those services and functions.

(3) Prior to entering into a contract under this section, the governing authority shall solicit qualifications-based competitive sealed proposals.

(4) The governing authority shall first establish criteria for evaluation of any entity submitting proposals on the contracts for the purpose of assisting the governing authority in making a review of the entity's previous performance on projects of comparable nature and magnitude and the environmental compliance record of the entity during the five (5) years immediately preceding the execution of the contract.

(5) The governing authority shall take into consideration the information to assist in determining the eligibility of any entity.

(6) The award of a contract under this section shall be made to the responsible and responsive entity whose proposal is determined in writing to be the most advantageous to the governmental authority, taking into consideration the evaluation factors set forth in the request for proposals.

(7) The governing authority of the municipality or the sanitation authority shall employ an appropriately licensed professional who is

independent of the contractor to monitor and perform an independent review and inspection of the design-build-operate-maintenance contract, or any part thereof, during its performance.

(8) Before soliciting proposals for a design-build-operation-maintenance project, the governing authority of the municipality or the sanitation authority shall employ an appropriate licensed professional to perform the necessary studies and preliminary design to clearly establish the parameters for the project, including:

(A) Acceptable processes and structural alternatives; and

(B) Cost estimates for the acceptable alternatives.

(k)(1) The state, an agency of the state, a county, a municipality, a school district, or other local taxing unit shall not require in plans or specifications that a bidder or supplier:

(A) Hold membership in any professional or industry associations, societies, trade groups, or similar organizations;

(B) Possess certification from any professional or industry associations, societies, trade groups, or similar organizations as steel building fabricators; or

(C) Be endorsed by any professional or industry associations, societies, trade groups, or similar organizations.

(2) However, plans and specifications may include or reference standards adopted by professional or industry associations, societies, trade groups, or similar organizations.

History. Acts 1949, No. 159, §§ 1, 2; 1977, No. 370, § 1; 1981, No. 266, § 1; A.S.A. 1947, §§ 14-611, 14-612; Acts 1987, No. 758, § 4; 1995, No. 1319, § 2; 1997, No. 1193, § 1; 1999, No. 219, § 3; 1999, No. 675, §§ 1, 2; 1999, No. 1309, § 1; 1999, No. 1310, § 1; 2001, No. 921, § 1;

2001, No. 1051, § 1; 2003, No. 1297, § 1; 2005, No. 859, § 4; 2009, No. 813, § 1.

Amendments. The 2009 amendment inserted “or institution of higher education” following “local taxing unit” throughout (f), and made related changes.

CASE NOTES

Rejection of Bids.

Public contractor could assert federal constitutional retaliation claims because a city’s rejection of its low bid for a contract pursuant to the “lowest responsible bidder” provisions of subsection (d) and subdivision (j)(6) of this section, had the effect of removing the contractor from the official list of contractors authorized to

provide construction services to the city. The contractor’s retaliation claims failed, however because the petitioning activity on which its claims were based, namely a prior contract-related arbitration proceeding between it and the city, did not involve a matter of public concern. *Heritage Constructors, Inc. v. City of Greenwood*, 545 F.3d 599 (2008).

22-9-204. Subcontractors exceeding \$20,000 — Penalty.

(a) As a condition to performing construction work for and in the State of Arkansas, all prime contractors shall use no other subcontractors when the subcontractors’ portion of the project is twenty thousand dollars (\$20,000) or more, except those licensed by the Contractors Licensing Board and qualified in:

(1) Mechanical, indicative of heating, air conditioning, ventilation, and refrigeration;

(2) Plumbing;

(3) Electrical; and

(4) Roofing.

(b)(1) In the event the prime contractor is qualified and licensed by the board, he or she may use his or her own forces to perform those tasks listed in this section as subcontractors in one (1) or more of the trades listed.

(2)(A) A subcontractor, including the situation stated in subdivision (b)(1) of this section, may subcontract a portion of the listed work.

(B) However, a subcontractor is prohibited from subcontracting the work in its entirety.

(c)(1) When the prime contractor makes a definite decision regarding the subcontractors he or she intends to use, he or she shall place the name of each subcontractor in a blank space provided on the form of proposal of his or her bid.

(2) In the event that one (1) or more of the subcontractors named by the prime contractor in his or her successful bid thereafter refuses to perform his or her contract or offered contract, the prime contractor may substitute another subcontractor licensed by the board after having obtained prior approval from the architect or engineer and the owner. Additional approval must be obtained from the Arkansas Building Authority for capital improvement projects under its jurisdiction.

(d) The prime contractor shall submit written evidence that the substituted contractor is costing the same amount of money or less and, if costing less, that the savings will be deducted from the total contract of the prime contractor and rebated to the owner.

(e) It shall be mandatory that the mechanical, plumbing, electrical, and roofing subcontractors named on the form of proposal by the prime contractor awarded a contract under the provisions of this subchapter be given contracts by the prime contractor in keeping with their proposals to perform the items for which they were named.

(f)(1) It shall be a violation of this section for any prime contractor to submit a bid listing unlicensed contractors or to use unlicensed contractors on a public works project if the listed work of the unlicensed contractors or portion of the unlicensed contractors' work is twenty thousand dollars (\$20,000) or more.

(2) It shall be a violation of this section for any subcontractor who is not licensed by the board to contract to perform work on a public works project if the listed work of the subcontractor or portion of the subcontractor's work is twenty thousand dollars (\$20,000) or more.

(3) The board has jurisdiction over violations of this subsection under § 17-25-103.

History. Acts 1949, No. 159, § 3; 1957, No. 183, § 1; 1961, No. 477, § 1; 1983, No. 871, § 1; A.S.A. 1947, § 14-613; Acts 1987, No. 759, § 1; 1989, No. 936, § 1; 1991, No. 728, § 1; 1993, No. 645, § 1; 1999, No. 1250, § 1; 1999, No. 1496, § 1; 2001, No. 989, § 1; 2003, No. 364, § 18; 2009, No. 193, § 9; 2011, No. 782, § 2.

Amendments. The 2009 amendment rewrote (f)(3); and deleted (f)(4) and (f)(5).

The 2011 amendment deleted “and sheet metal contractors” following “roofing” in (e); added “if the listed work of the

unlicensed contractors ... (\$20,000) or more” in (f)(1); and added “if the listed work of the subcontractor ... (\$20,000) or more” in (f)(2).

22-9-213. Exemption of state projects from local regulation.

Cross References. Projects exceeding two million dollars, § 14-58-1001.

22-9-214. Hold harmless clause in public construction contracts unenforceable.

(a) As used in this section:

(1) “Construction” means any of the following services, functions, or combination of the following services or functions to construct a building, building site, or structure, or to construct a permanent improvement to a building, building site, or structure, including site work:

- (A) Alteration;
- (B) Design;
- (C) Erection;
- (D) Reconditioning;
- (E) Renovation;
- (F) Repair; or
- (G) Replacement;

(2)(A) “Public construction agreement” means an agreement in which one (1) party is a public entity and the agreement is the bargain of the parties in fact as found in their language or inferred from other circumstances, including course of performance, course of dealing, or usage of trade as provided in § 4-1-303.

(B) “Public construction agreement” does not include an insurance contract, a construction bond, or a contract to defend a party against liability; and

(3)(A) “Public construction contract” means a contract in which one (1) party is a public entity and the contract is the total legal obligation that results from the parties’ agreement under this section and as supplemented by any other applicable law.

(B) “Public construction contract” does not include an insurance contract, a construction bond, or a contract to defend a party against liability.

(b) A clause in a public construction agreement or public construction contract entered into after July 31, 2007, is unenforceable as against public policy to the extent that a party to the public construction contract or public construction agreement is required to indemnify, defend, or hold harmless another party against:

(1) Damage from death or bodily injury to a person arising out of the sole negligence of the indemnitee, its agent, representative, subcontractor, or supplier; or

(2) Damage to property arising out of the sole negligence of the indemnitee, its agent, representative, subcontractor, or supplier.

(c) A provision or understanding in a public construction agreement or public construction contract that attempts to circumvent this section by making the public construction agreement or public construction contract subject to the laws of another state is unenforceable as against public policy.

(d) A clause described under subsections (b) and (c) of this section is severable from the public construction agreement or public construction contract and shall not cause the entire public construction agreement or public construction contract to become unenforceable.

(e) The parties to a public construction contract or public construction agreement may enter into an agreement in which:

(1) The first party indemnifies, defends, or holds harmless the second party from the first party's negligence or fault or from the negligence or fault of the first party's agent, representative, subcontractor, or supplier;

(2) The first party requires the second party to provide liability insurance coverage for the first party's negligence or fault if the public construction contract or public construction agreement requires the second party to obtain insurance and the public construction contract or public construction agreement limits the second party's obligation to the cost of the required insurance;

(3) The first party requires the second party to provide liability insurance coverage for the first party's negligence or fault under a separate insurance contract with an insurance provider; or

(4) The first party requires the second party to name the first party as an additional insured as a part of the public construction agreement or public construction contract.

History. Acts 2007, No. 874, § 1; 2009, No. 540, § 1; 2011, No. 1123, § 1.

Amendments. The 2009 amendment inserted "including sitework" in the introductory language of (a)(1); rewrote the

introductory language of (e); and made related and minor stylistic changes.

The 2011 amendment substituted "site work" for "sitework" in the introductory language of (a)(1).

SUBCHAPTER 3 — MINIMUM PREVAILING WAGE

22-9-301. Payment required.

Cross References. Projects exceeding two million dollars, § 14-58-1001.

SUBCHAPTER 4 — CONTRACTORS' BONDS

SECTION.

22-9-402. Authorized bonding companies

— Agents.

22-9-401. Coverage.

Cross References. Projects exceeding two million dollars, § 14-58-1001.

CASE NOTES

Cited: In re Fox, 357 B.R. 770 (Bankr. E.D. Ark. 2006).

22-9-402. Authorized bonding companies — Agents.

(a) All bonds enumerated in § 22-9-401 and bid bonds enumerated in § 19-4-1405 shall be made by surety companies which have qualified and are authorized to do business in the State of Arkansas.

(b)(1) The bonds shall be executed by a resident or nonresident agent.

(2) The resident or nonresident agent shall:

(A) Be licensed by the Insurance Commissioner to represent the surety company executing the bond; and

(B) File with the bond the power of attorney of the agent to act on behalf of the bonding company.

History. Acts 1929, No. 368, § 2; 1935, 1991, No. 1086, § 1; 2001, No. 980, § 1; No. 82, § 2; Pope's Dig., §§ 959, 7772, 2005, No. 236, § 1. 8005, 8884; A.S.A. 1947, § 14-605; Acts

SUBCHAPTER 5 — DEPOSIT OF SECURITIES**22-9-501. Substitution of securities for retained payments — Contracts generally.**

Cross References. Projects exceeding two million dollars, § 14-58-1001.

SUBCHAPTER 6 — RETAINAGE

SECTION.

22-9-604. Procedure.

22-9-601. Definitions.

Cross References. Projects exceeding two million dollars, § 14-58-1001.

22-9-604. Procedure.

(a)(1) In the case of a construction contract entered into between a public agency and a contractor who is required to furnish a performance bond, the contractor shall be entitled to payment of ninety-five percent (95%) of the earned progress payments when due, with the public

agency retaining five percent (5%) to assure faithful performance of the contract.

(2) If the construction contract allows for phased work in which completion may occur on a partial occupancy, any retention proceeds withheld and retained under this section shall be partially released within thirty (30) days under the same conditions under this section in direct proportion to the value of the part of the capital improvement completed.

(b) All sums withheld by the public agency shall be paid to the contractor within thirty (30) days after the construction contract has been completed.

(c) In the event the construction contract requires the contractor to purchase and furnish materials or equipment that will be stored on the job site or in a bonded warehouse by the contractor and used in the job as required by the construction contract, no retainage will be withheld on that amount of the submitted progress payment pertaining to the cost of these stored materials or equipment.

History. Acts 1977, No. 235, §§ 2, 3; A.S.A. 1947, §§ 14-653.1, 14-653.2; Acts 2007, No. 471, § 3; 2009, No. 193, § 10.

Amendments. The 2007 amendment added (a)(3); and in (b), substituted "shall be paid" for "shall be held in escrow and shall be paid" and "the 'construction contract' has been completed" for "the contract has been substantially completed."

The 2009 amendment, in (a), substituted "ninety-five percent (95%)" for "ninety percent (90%)" and "five percent (5%)" for "ten percent (10%)" in (a)(1), deleted (a)(2) and redesignated the remaining text accordingly, and made a minor stylistic change.







